



The International Institute for Strategic Studies (IISS)

**IMPLEMENTING SANCTIONS: PROSPECTS AND PROBLEMS
BUENOS AIRES, 19-20 NOVEMBER 2012**

WORKSHOP REPORT

In on-going collaboration with the United Nations Panel of Experts on Iran, established pursuant to UN Security Council Resolution 1929 (the 'Panel'), the International Institute for Strategic Studies (IISS) held a workshop in Buenos Aires on 19-20 November 2012, to discuss the challenges of implementing sanctions on Iran and share best practices for compliance. Following similar events in Dubai (May 2011), Istanbul (November 2011), Singapore (April 2012), and Nairobi (May 2012) this fifth workshop convened more than 30 government officials and industry representatives from Argentina, Chile, Colombia, Ecuador, Peru, Uruguay, the United Kingdom and the United States to discuss sanctions implementation in the Latin American region. The first day of this outreach event was devoted to UN sanctions and included sessions on the implementation of sanctions in the transportation and finance sectors and a discussion of export-control and customs-related measures. A second half day discussed unilateral sanctions imposed by the EU and the US. The Buenos Aires-based Non-Proliferation for Global Security (NPSGlobal) provided valuable assistance. The IISS alone was responsible for the agenda and the speakers as well as for this workshop report.

Overview of UN sanctions on Iran

A Panel expert explained that the four rounds of UN Security Council (UNSC) sanctions on Iran are part of a dual-track strategy of diplomacy and restrictive measures that is intended to persuade Iran to negotiate a peaceful solution to concerns about its sensitive nuclear activities. Sanctions impose restrictions on the transfer of items that could contribute to Iran's uranium enrichment and missile programmes. They also limit financial transactions and impose travel bans and other restrictions on designated individuals and entities. Vigilance is particularly required with regard to trade and transportation involving the Islamic Revolutionary Guard Corps (IRGC), the Islamic Republic of Iran Shipping Lines (IRISL) and Iran Air Cargo.

UN sanctions are also intended to slow advancement of programmes of concern. The Panel concludes that sanctions make it difficult for Iran to procure parts and ingredients, including for ballistic missile fuel and for second-generation centrifuges. It is difficult, however, to

assess the impact of UN sanctions alone, given that several countries have also imposed unilateral measures.

Because implementation of sanctions has been uneven, Iran has been able to evade sanctions by exploiting these gaps. Creating front companies and concealing end-users are among the means Iran employs. A new trend is for illicit goods to transit multiple countries – up to five in some cases – to disguise the final destination. Further information about evasion tactics and other aspects of Iran sanctions implementation can be found in the Panel’s June report.¹

The resolutions also encourage UN member states to cooperate with the Panel. There is no specific guideline on what the mandatory national implementation reports should cover. The Panel encourages countries to include any instances of sanctions violations and attempts to circumvent the UN mandate, as well as ways in which states face difficulties in implementation. Globally, 60% of nations have submitted the required national implementation reports. In South America, six states have submitted reports.

To improve sanctions enforcement, countries are encouraged to adopt national implementation measures, share information with the private sector, establish intergovernmental and inter-sectoral cooperation mechanisms, and exercise vigilance. Border control and customs agencies play a key role, as do banks and other actors in the private sector, where there is a need for awareness of sanctions requirements through training and other outreach measures.

It was suggested that patchy implementation is generally not due to a lack of political will, but to insufficient resources to deal with tasks such as filing implementation reports. To enhance national capacities for sanctions implementation, assistance is available through the UNSC. It was noted that, as the first region to adopt a nuclear-weapons free zone (the 1968 Tlateloco Treaty), Latin America has much to teach others about non-proliferation.²

Regional sanctions implementation practice

Most of the countries represented at the workshop have adopted domestic processes to implement and enforce Iran sanctions resolutions. States that serve on the UNSC appear to have implemented some of the best practices. This is particularly the case with Colombia, which chairs the UN Iran Sanctions Committee.³ A Coordinating Committee established by

¹ ‘Final report of the Panel of Experts established pursuant to resolution 1929 (2010),’ 12 June 2012, http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2012_395.pdf

² It was noted that the purpose of the treaty is to ban nuclear weapons in Latin America, not to prevent proliferation elsewhere, and that the treaty’s prohibitions on nuclear weapons do not address dual-use technology.

³ It was said that the Iran Sanctions Committee feels blinded by not receiving any reporting from the ‘P5+1’ countries that have been negotiating with Iran.

Colombia distributes information on sanctions to all relevant government agencies, which must then report on their implementation. A 'focal point' is designated within each agency.. So far, there has been no activity by entities on the UN designation list. A similar internal coordination process occurs in Peru, which is a recent member of the UNSC. The information each agency transmits to the Ministry of Foreign Affairs is then used in national reports to the UN. The Ministry of Foreign Trade and Customs in Peru has also taken additional preventive measures to examine trends in trade with Iran on a quarterly basis, in order to be sure that there are no inconsistencies. Peru has not uncovered any cases of violation.

Participants from other states in the region similarly said that there had not been much activity of concern in their own countries. This has made it difficult to encourage public organisations to be vigilant. Some countries, such as Colombia, overcome this by organizing meetings with various groups of concern to highlight the importance of sanctions implementation.

States in Latin America do not have a common position in dealing with Iran. Some exchange high-level visits with Tehran, import Iranian drones and reportedly sell it uranium.⁴ Argentina, because of its experience in suffering a terrorist bombing in 1984 linked to Iran, has no ties with that nation, although negotiations recently ensued to resume diplomatic relations.⁵ Argentina's position with respect to sanctions is nuanced because of its status as a provider of nuclear fuel and the tension it perceives between respect for article four of the NPT, which enshrines the right to peaceful nuclear energy for all, and mandatory implementation of UNSC resolutions.⁶

Problems posed by triangular trade were noted: when goods transit through a second country en route to a third but their final destination or the end-user cannot be guaranteed. For example, under the terms of a 1929 treaty, Bolivia has free access to port facilities in Arica in northern Chile; if Bolivia were to export uranium to Iran through this port, as has been reported but not confirmed, Chile would have no right to inspect or interdict it.

⁴ Martin Arostegui, 'Iran Tries to Gain Sway in Latin America', *Wall Street Journal*, 6 December 2011.

⁵ 'AMIA: Timerman announces new negotiations with Iran scheduled for November', *Buenos Aires Herald*, 31 October 2012, <http://www.buenosairesherald.com/article/115643/amia-timerman-announces-new-negotiations-with-iran-scheduled-for-november>. Perhaps due to the sensitivity of these on-going negotiations, the Argentina Foreign Ministry was not represented at the workshop, although experts from other agencies and organizations ensured that Argentine positions were well represented. Brazil's decision not to be represented may have been related to its vote against the UNSC Iran sanctions resolution in May 2010.

⁶ It was suggested that although Argentina is unlikely to sell research reactor fuel directly to Iran, any request by the IAEA to provide fuel through the Agency would have to be considered.

The dual-use nature of many goods that are destined for Iran's enrichment and missile programmes makes it hard to distinguish between illicit and legitimate trade. . The sharing of information among states, for example on export license denials, is one way to overcome the difficulty. Another strategy is to examine abnormal spikes in exports or mismatched credit data. A good relationship between the government and financial institutions can help ensure that anomalous transactions are reported.

Sanctions implementation and impact on key industries

a. Export Controls and Customs

There was a call to strengthen export control regimes, including on conventional and light arms. The lamentable failure this summer to adopt an Arms Trade Treaty (ATT) means that trade in bananas remains more regulated than trade in guns. Concluding an ATT would boost implementation of Iran sanctions. One participant explained that there was no harmony between national control systems. Instead South America has an inconsistent mosaic of regional and national arrangements. In addition, export control and customs agencies do not have the resources to fully implement measures already in place. Finally, corruption has also been a major issue in the region.

Effective implementation of export controls would allow governments to better separate controlled items from harmless items, which would in turn encourage legitimate trade. A complication is that Iran often procures items below the threshold on the list of prohibited items. Participants suggested establishing a single electronic database to help them identify import and export trends. In the absence of a consensus, however, there is no easy way to establish such a database. A representative from industry made a plea for illustrative examples that would help businesses better understand what to look out for. Some case histories are to be found in the Panel's June report. Another participant said it is easier to focus on the end user.

b. Financial Sector

A Panel expert outlined the two types of UN sanctions relevant to the financial sector: asset freezes of 43 designated persons and 76 companies, and activity-based sanctions which restrict on financial and business dealings with Iran. The Panel seeks to know how states implement the freeze and conduct the vigilance called for in the resolutions.

Regulations on terrorism financing have formed the basis for the implementation of financial sanctions on Iran. In Chile, the Financial Intelligence Unit (FIU) reports on and freezes suspicious cases of terrorism financing. The Senate is in the process of approving a bill that would enable the FIU to target other suspicious cases involving financial transactions related to Iran. Colombia already has legislations on terrorism financing, and is exploring ways to tackle proliferation financing based on Financial Action Task Force

(FATF) Recommendation 7. The FIU works with the Prosecutor's office to flag suspicious financial transactions and risk analysis on other illegal business transactions. The workshop chairman noted that the IISS recently published a useful paper that describes indicators of suspicious financial activity.⁷

A question was raised about whether the SUCRE (Sistema Único de Compensación Regional) proposed regional currency system for transactions between members of the regional trade bloc Bolivarian Alliance for the Americas (ALBA, encompassing Bolivia, Cuba, Ecuador, Nicaragua, Venezuela and some other Caribbean island states) opened a potential vulnerability to exploitation by Iran sanctions evasion. A banking expert answered that even in these countries; deficiencies that are exposed by the US can lead to the bank in question being closed. A participant from one of the ALBA countries described it as largely a political union, which was not fully endorsed by the private sector.

c. Transportation and Shipping

A panel expert noted that the resolutions provide authorization for states to interdict transportation if they have reasonable grounds to believe the cargo violates the resolutions. Cargo businesses are sensitive to sanctions requirements and have adopted internal compliance measures that go beyond 'know your customer'. IRISL presents an enforcement problem because of the rapidity with which it changes the names of ships and ownership. An American participant said Washington has identified 100 front companies set up by IRISL, including one in Panama. Also, Bolivia recently for a short time provided flag-state services to IRISL. Some major shipping companies such as Maersk have stopped doing business with Iran altogether because of the reputation risk and the potential for financial losses in the event of interdiction. Such decisions, however, obscure the targeted nature of UN sanctions.

In the case of maritime transport, many different stakeholders are responsible for ensuring safety and security: ship yards, insurance companies, protection agencies, flag states, ship owners and sea captains, to name a few. All are responsible for ensuring that no prohibited or dangerous goods are being transported by sea. Three aspects of ensuring safety and security of maritime transport were highlighted: the automatic identification system (AIS), the Safety of Life at Sea (SOLAS) Convention and the other relevant conventions adopted by the International Maritime Organization (IMO). Adherence to these aspects of maritime transport can also pay dividends for sanctions implementation.

One participant suggested that transport by air is a more likely transport method for illicit trafficking in order to avoid maritime controls. Private aircraft often change flight details at

⁷ Zia Ullah, 'The Financing of Illicit Arms Transfers and sanctions violations', July 2012, available at <http://www.iiss.org/events-calendar/2012-events-archive/may-2012/making-sanctions-works-problems-prospects/>

the last moment, leaving little time for planning interdiction when there is reason to suspect sanctions violations. The quick turn-around time for airplanes and the large volume that cargo aircraft can carry contributes to the vulnerability. States are therefore inclined just to deny over-flight clearance when there are suspicions.

Unilateral sanctions on Iran

The European Union, the United States and several other countries have imposed additional sanctions on Iran that expand the list of blacklisted entities and impose additional regulations on transactions and investments in Iran's financial and energy sectors.

In the US, the Office of Foreign Assets Control (OFAC) in the Treasury Department implements and enforces US sanctions on Iran. The US focuses on specific pressure points in Iran to drive it to the negotiating table, including sanctions against actual proliferators and sanctions on the Iranian financial sector. The June 2010 US Comprehensive Iran Sanctions, Accountability and Divestment Act (CISADA), imposed restrictions on third-country financial institutions by threatening to exclude them from the US financial system should they be found to be engaged in certain activities such as the facilitation of 'significant transactions' with US-designated, Iranian-linked banks or with agents or affiliates of the IRGC. A new US law, signed on 31 December 2011 under the National Defense Authorization Act, imposes additional restrictions on financial institutions conducting transactions related to Iran's petroleum industry with the Central Bank of Iran, in order to focus on the source of the Iranian regime's revenue. It builds on the CISADA model by conditioning access of foreign governments to US financial institutions by requiring them to decrease their oil imports from Iran. Additional measures adopted under the President's executive authority this summer tightened sanctions on Iranian oil purchases. The Congress recently added its own new measures, which also target human rights abuses. In answer to a question about how foreign private businesses can be expected to keep up with the US sanctions, it was explained that OFAC has a hotline to address questions (+1-800-540-6322).

The European Union's autonomous sanctions regulations and implementation of UN Security Council resolutions have resulted in the designation of more than 440 companies, including Iran's Central Bank. Additional restrictions beyond UN Security Council sanctions include prohibitions on trade, finance, transport and the freezing of funds for designated entities. They call upon companies and financial institutions to exercise 'vigilance' in monitoring their transactions and establish a prior notification and approval framework for suspicious transactions that risk running afoul of these sanctions. The EU has also adopted measures that target Iran's energy sector, including an embargo of Iranian crude oil imports to the EU, and prohibited the provision of insurance and reinsurance to the Iranian government and designated Iranian entities.

Participants expressed concern about the "extraterritorial effect" of unilateral sanctions in particular. One participant likened the issue to the case of parents who rightly apply rules

to their own children but have no right to punish the neighbours' children for misbehaviour. An OFAC representative agreed with the analogy of sanctioning children but said what the US does is akin to parents prohibiting their children from playing with neighbours who are toying with guns or taking drugs. The US has no jurisdiction to put restrictions on the neighbour kids in what they do in their own house, but can prohibit them from coming into 'our yard.'

Comment

In closing, a representative of NPSGlobal expressed a sentiment shared by many participants about the richness of the discussion and the 'unquestionable utility' of the information presented. Buenos Aires was seen to be a good venue for the regional meeting, and the use of simultaneous interpretation allowed for active discussion by all of the experts present. Participants did not fully share the chairman's injunction to avoid UN-type political debate, but some such commentary is unavoidable with a topic as politically charged as Iran sanctions. For the most part, and in accordance with the outreach purpose of the workshop, the discussion focused on the practicalities of sanctions implementation. Many participants expressed a desire to keep further in touch with the Panel and with IISS.