Otto-Friedrich-Universität Bamberg

Dissertation

Security Council Sanctions Committees: From power-based to rule-based decision-making?

zur Erlangung des akademischen Grades doctor rerum politicarum (Dr. rer. pol.)

eingereicht an der Fakultät Sozial- und Wirtschaftswissenschaften
der Universität Bamberg

vorgelegt von

Thomas Dörfler, M.A.

Gutachter: 1. Prof. Dr. Thomas Gehring

2. Prof. Dr. Monika Heupel

3. Prof. Dr. Thomas Rixen

Tag der mündlichen Prüfung: 13.07.2016

Deutsche Zusammenfassung

Das Ziel dieser Arbeit ist es, zu untersuchen, ob und auf welche Weise die Einrichtung von entscheidungsbefugten Sanktionsausschüssen im Weltsicherheitsrat die Entscheidungstätigkeit sowie den Gehalt der Entscheidungen beeinflusst. Im Rahmen der Sanktionsregime des Weltsicherheitsrats werden zahlreiche kleinteilige Umsetzungsentscheidungen über längere Zeiträume hinweg getroffen. Diese Entscheidungen überträgt der Sicherheitsrat auf seine Sanktionsausschüsse mit identischer Mitgliedschaft. In dieser Arbeit wird dafür ein theoretisches Konzept des Regierens im Ausschuss entwickelt und argumentiert, dass die Einrichtung von Sanktionsausschüssen einen zweistufigen, in sich differenzierten Entscheidungsprozess hervorbringt, der Regelsetzung und Regelanwendung trennt und damit Anreize zu regelbasiertem Entscheiden erzeugt. Dies ist selbst dann der Fall, wenn alle kollektiven Entscheidungen von denselben Mitgliedern getroffen werden. Während Akteure, die sich darauf konzentrieren spätere Umsetzungsentscheidungen mit Regeln zu steuern, einem erheblichen Konsistenzzwang unterliegen, sehen sich die Akteure in der Ausschusssituation mit Koordinationssituationen konfrontiert, die externer Regeln oder intern erzeugter Präzedenzfälle als Orientierungspunkte bedürfen. Dies gilt sofern kein Akteur eine Entscheidungsblockade bevorzugt. Anschließend werden, basierend auf bislang ungenutzten Dokumenten, die Effekte von Regieren im Ausschuss im Weltsicherheitsrat anhand von fünf Sanktionsregimen (Irak, Al-Qaida/Taliban, Demokratische Republik Kongo, Sudan und Iran) untersucht. Ich komme zu dem Schluss, dass die Übertragung von Entscheidungskompetenzen an Sanktionsausschüsse selbst mächtige Akteure zu regelbasiertem Entscheiden veranlassen kann.

Schlagwörter: Funktionale Differenzierung, Regieren im Ausschuss, Internationale Organisationen, Sicherheitsrat, Sanktionsausschüsse, Wirtschaftssanktionen, gezielte Sanktionen, Al-Qaida, Terrorismusbekämpfung, Irak, Demokratische Republik Kongo, Sudan, Iran

Abstract

In this book, I study how and with what consequences the creation of sanctions committees within Security Council sanctions regimes affects the Council's dominant logic of decision-making and the content of decisions taken. Security Council sanctions regimes increasingly involve complex governance projects that require the adoption of numerous detailed implementation decisions over extended periods of time. The Security Council increasingly delegates these decisions to its sanctions committees with identical membership. In a first step, I develop a theoretical model of committee governance. I argue that the establishment of sanctions committees creates a two-stage decision process which affects collective decision processes in ways that favor rule-based decisions even though the same group of actors adopts all relevant decisions. This effect occurs if a group of actors separates a comprehensive decision-process into a stage of rule-making and a stage of subsequently applying these rules to a stream of implementation decisions. While rulemaking actors are subject to constraints of consistency, in rule-application, actors face coordination situations that create the demand for externally provided rules or internally produced precedents as focal points. Subsequently, based on previously neglected documents, I analyze the effects of committee governance for five Security Council sanctions regimes (Iraq, Al-Qaida, Democratic Republic of the Congo, Sudan and Iran). I conclude that delegating implementation decisions to sanctions committees may commit even the most powerful member states to rule-based decision-making.

Keywords: Functional Differentiation, International Organization, Committee Governance, Security Council, Sanctions Committees, Comprehensive Sanctions, Targeted Sanctions, Smart Sanctions, Al-Qaida, Counter-terrorism, Iraq, Democratic Republic of the Congo, Sudan, Iran

Table of Contents

Abbreviations

ADF	Allied Democratic Forces — National Army for the Liberation of Uganda, Rebel group operating in the DRC
AMIS	African Union Mission in Sudan
ASSMT	Analytical Support and Sanctions Monitoring Team, Panel of Experts associated with the Al-Qaida and Taliban sanctions regimes
CPA	Comprehensive Peace Agreement
DPA	Darfur Peace Agreement
E10	Elected non-permanent members of the UN Security Council
ESCWA	United Nations Economic and Social Commission for Western Asia
EU	European Union
FAO	Food and Agricultural Organization
FARDC	Forces Armées de la République Démocratique du Congo
FDLR	Forces démocratique de libération du Rwanda, Rebel group operating in the DRC
FNI	Front des Nationalistes et Intégrationnistes, Rebel Group operating in the DRC
G-19	Group of 19, Rebel group operating in Sudan
G-7	Group of Seven
IAEA	International Atomic Energy Agency
ICC	International Criminal Court
ICRC	International Committee of the Red Cross
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
IO	International Organization
IRISL	Islamic Republic of Iran Shipping Lines
ISIL	Islamic State of Iraq and the Levant

JEM	Justice and Equality Movement, Rebel group operating in Sudan
LRA	Lord Resistance Army, Rebel group operating in the DRC
M/V	Motor Vessel
M23	Mouvement du 23 Mars, Rebel group operating in the DRC
MONUC	Mission des Nations Unies en République 12émocratique du Congo
MONUSCO	Mission de l'Organisation des Nations Unies pour la stabilisation en Republique democratique du Congo
MSF	Médecins Sans Frontières
MTCR	Missile Technology Control Regime
NRF	National Redemption Front, Rebel group operating in Sudan
NSG	Nuclear Suppliers Group
ONUC	Organisation des Nations Unies au Congo
P5	Permanent Members of the UN Security Council (China, France, Russian Federation, United Kingdom, United States)
P5+1	Permanent Members of the UN Security Council (China, France, Russian Federation, United Kingdom, United States) plus Germany
SAF	Sudanese Armed Forces
SCR	Security Council Report, non-profit organization documenting Security Council activity
SITC	UN Standard International Trade Classification
SLA	Sudan Liberation Army, Rebel group operating in Sudan
UK	United Kingdom of Great Britain and Northern Ireland
UN	United Nations
UNAMID	African Union/United Nations Hybrid operation in Darfur
UNAMIS	United Nations Advance Mission in Sudan
UNCC	United Nations Compensation Commission
UNDP	United Nations Development Programme

UNESCO	United Nations Educational, Science and Cultural Organization
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations International Children's Emergency Fund
UNMIS	United Nations Missions in Sudan
UNSC	United Nations Security Council
UNSCOM	United Nations Special Commission
UNSCR	United Nations Security Council Resolution
US	United States of America
WFP	World Food Programme
WHO	World Health Organization

List of Tables

List of Figures

1 Introduction

The United Nations Security Council transfers an astonishing range of substantive decision competencies to specifically created sanctions committees. Strikingly, these committees process a huge number of single-case decisions, for instance, exemptions from a comprehensive trade embargo or listing and delisting of individuals subject to assets freeze and travel bans. The Yugoslavia sanctions committee alone adopted more than 35,000 decisions in just one year (S/1996/946). More importantly, decisions taken within the sanctions committees set legally-binding international law for all UN Member States. These decisions can have significant humanitarian consequences or potentially abridge the fundamental human rights of sanctioned individuals, even though only few states are represented in the Council. In effect, the workings of the Council's sanctions committees is relevant as the decisions taken substantially enhance or strain the Council's effectiveness and legitimacy. Indeed, sanctions regimes have become a key tool of the Security Council for maintaining international peace and security besides the authorization of the use of force. Since the end of the Cold War, the Council has created almost 30 sanctions regimes for a range of objectives, including interstate conflicts, civil wars, counter-terrorism, non-proliferation and the protection of civilians. The Council currently maintains 16 different sanctions regimes, all of which are administered by a separate sanctions committee.

Security Council sanctions regimes, although they are temporary arrangements, require adopting a host of implementation decisions continuously and over extended periods of time (Sievers/Daws 2014: 520–521) so that they give rise to significant regulatory decision-making. Banning the travel and freezing the assets of presumed Al-Qaida affiliates requires drawing up comprehensive and reliable list of sanctions targets and eventually delisting those who have convincingly renounced terrorism. Equally so, to administer comprehensive economic sanctions Council members need to decide about which exemptions are acceptable on humanitarian grounds and which should not be granted: "Medicines clearly fell outside the sanctions regime. But what about books, clothes, construction materials, and agricultural equipment?" (Bosco 2009: 164). Nuclear materials and ballistic missile related commodity sanctions are only effective, when Council members draw up and regularly adapt a detailed list of

singular items banned from trade with the target country to cover technological advancement and forestall sanctions busting. In essence, the overall effect of a sanctions regime consists of a plethora of small and separate implementation decisions taken by sanctions committees, while each single decision itself is negligible. Nevertheless, in the environment of high politics, member states, in particular the powerful permanent members bargain hard over these decisions, which are politically sensitive and often controversial.

Not least because of the political nature, Security Council sanctions regimes have a remarkable institutional design as the Council delegates these single-case decisions to sanctions committees which have the same membership. In fact, the Council delegates to itself. As David Bosco noted, "[t]he council, after all, might have delegated the function of monitoring sanctions to the secretary-general and his staff, just as the council had long delegated the management of peacekeeping operations. Instead, it chose to carry out the task itself" (2009: 157). Even though the Council members assume all important decisions for themselves, the Council recreates a more complex governance structure and introduces a system of divided labor. It relieves the Council from taking numerous detailed implementation decisions, which the Council itself as a political body cannot deal with adequately. The Council focuses on the overall political issues such as which sanctions measures should be imposed, under what conditions should sanctions be lifted or whether or not a Panel of Experts should monitor sanctions implementation. Then, the sanctions committee is responsible for the subsequent and consecutive implementation, including listing and delisting of individuals or granting exemptions from a comprehensive embargo.

Against this background, it is puzzling that current international relations scholarship cannot convincingly account for a phenomenon that practitioners and close observers have recognized and frequently reported since the Iraq sanctions regime, namely that sanctions committees seem to decide according to rules. Notably, former Canadian UN ambassador David Malone, claimed that imposing comprehensive sanctions against Iraq in 1990 "represented an important step by the Council away from its classical politico-military approach (…) toward a more legal-regulatory approach, imposing standards of conduct on a Member State, which it then monitored and implemented through a regulatory agent – on this occasion the 661

committee“ (2006: 61; Malone/Chitalkar 2016: 557–558). Many Council diplomats have made similar assertions (Conlon 2000: 8–9; Malone 2012: 63; van Walsum 2004; Scharf/Dorosin 1993; Koskenniemi 1991; Kaul 1996; Mimler 2013). Yet, despite the extensive scholarship on the UN Security Council, the existing literature pays little attention to the governance structure of Security Council sanctions regimes because aspects that are usually assumed to foster autonomous action, such as a strong secretariat, are absent. Instead, the literature predominantly perceives the Council and its committee as a single comprehensive body. As a result, the Security Council including its subsidiary bodies is primarily conceptualized as a forum of great power politics, where decisions can be sufficiently well explained by the interest constellation among its members on both levels. The current scholarship would not expect that the governance structure of sanctions regimes affects decision-making because the same group of member states controls all relevant decisions. However, practitioners assert that sanctions committee members, even in highly political sanctions regimes, align their behavior frequently to rules and rules derived from precedents and extensively debate about the viability of competing decision proposals vis-à-vis existing decision rules.

In this study, I address the gap by systematically analyzing the dynamics of decision-making within Security Council sanctions regimes. I provide a theoretical framework that accounts for the structuration of decision processes even in intergovernmental and highly political organizations. Since Security Council sanctions committees are assumed to be least suitable for rule-based decision-making due to their composition and politicized environment (Wood 1998: 84), they lend themselves for the analysis of how a more structured decision-making process actually affects even the behavior the world’s most powerful states. The analysis yields strong theoretical and empirical implications and contributes to understand how international organizations work as well as how Security Council sanctions regimes operate.

1.1 Research question

It is puzzling to observe that decision-making in Security Council sanctions committees seems to follow a different logic despite the identical membership of the Council and the sanctions committees. But how can one account for the apparent effect that decisions produced in sanctions committees seem to be rule-based, rather than power-based? These observations highlight a remarkable feature of Security Council governance which gained particular relevance after the end of the Cold War, namely that it creates more complex, indeed functionally differentiated, institutional structures that affect its decisions. Therefore, the empirically-guided research question is *how and with what consequences does the creation of sanctions committees within the Security Council's sanctions regimes affect the decision-making behavior of the actors involved and the content of the decisions taken?*

This basic research question provides the framework to four interrelated sets of empirical-analytical research questions. The first set of questions looks into the exact nature of the division of labor between the Security Council and its sanctions committee. Here the analysis focuses on the matter, which functions the Security Council retains, and which functions it transfers to the respective sanctions committee. Underlying this division of labor, what are the causes of the observable increasing regulation of sanctions regimes? Can one observe that the Council intentionally guides its sanctions committee and if yes, how? How can decision-making blockades within the committee be meaningfully adverted? Is there a difference in observable effects when committee members themselves adopt decision rules instead of the Council?

The second set of questions highlights the consequences for the Security Council when it transfers decision competencies to its committee. While the existing literature has centered on effects of decision-making within the Council, little is known about the consequences of Council decision-making when it does no longer decide about single cases but provides political guidance to its sanctions committee. Does the Council guide the sanctions implementation stage in the committee with rules? If so, can we observe pressures to adopt consistent rules despite situation-specific interests of powerful members or do these rules contain exemptions for the powerful? Are Council members willing to commit the work of the committee to rules? Can we

ascribe an absence of regulation to the Council member's desire to avoid such commitments to retain flexibility?

The third set of questions takes the consequences of division of labor for the committee into the view. Above all, under what conditions will committee members be willing to accept that decisions have to follow rules assuming that they may have diverging situation-specific interests in some cases? When committee members indeed accept rules as a yardstick to process decision requests, then there is reason to believe that decisions will be more consistent and arbitrary behavior would be difficult to sustain. In this context, for a meaningful test of theoretical arguments it is decisive to question if rules are also applicable to decision requests of powerful committee members and not just those of the Council's non-permanent members or those of the wider UN membership? Furthermore, how do committee members deal with situations where regulation is absent? How do procedural changes affect committee decisions?

The fourth set of questions highlights the consequences for the results of regulatory decision-making in sanctions committees. Here the analysis focuses on the ultimate regulatory decisions taken within a particular sanctions regime. In what respect does functional differentiation of Security Council sanctions regimes cause increasingly rule-based decisions in comparison to decisions we would expect to observe in an undifferentiated negotiation setting? Can we also observe the effects of functional differentiation in cases where the targeted individual's fundamental human rights are not directly affected, for instance in sanctions regimes applying economic embargoes or non-proliferation measures? Are the effects of committee governance robust across a number of different settings, interest constellations or content of decisions?

Behind the central empirical motivation lies a theoretical research question rooted in the larger research agenda on the study of international organizations in international relations theory. In its center is the ambition to analyze how international organizations at all can affect decision-making and under what conditions we would expect such effects to occur. While previous research has emphasized the role of independent agents (Hawkins et al. 2006b) and bureaucracies (Barnett/Finnemore 2004), the scholarship has not yet accounted for the setting of a

simple, but differentiated organization where the exact group of members is present on all relevant decision-making levels, usually thought to be unfavorable for rule-based decisions. Therefore, the theoretically-guided research question is *how can functional differentiation within international organizations as a basic principle change the decision-making rational of member states and the content of decisions even if decisions are taken by the same group of actors?*

This study contributes to the empirical analysis of Security Council sanctions regimes. The aim is to provide a systematic explanation for decision-making in the increasingly complex governance structures within the Security Council, with a focus on its sanctions regimes. In that sense, the explanation provided is broader than existing approaches that attribute the increasing regulation of sanctions regime entirely to external pressure, because it highlights that the cause of regulation lies in its functionally differentiated structure. Whereas external pressure can lead to increasing regulation, it is not the sole source of such development. Thereby, the analysis also demonstrates that Security Council sanctions regimes are indeed capable of producing well-reasoned decisions even though the Council is dominated by great powers and although the committee consensus procedure would not lead to expect such outcomes.

Equally important, the analysis seeks to contribute to the theoretical debate about the role and effect of international organizations in international relations. This study aims at enriching the theoretical understanding of how international organizations work and how they potentially affect decision-making of rational actors. Centrally, the thesis contributes to the previous knowledge by analyzing under what conditions the effects of functional differentiation are also present in the borderline case of a functionally differentiated organization that transfers decision competencies to a committee with the same membership. By focusing on the structuration effects of a purely intergovernmental organization, the analysis goes beyond previous institutional analysis by looking into a theoretical constellation that is least favorable to the rationalizing effects of committee governance.

With this analysis, I do neither intend to clarify whether or not sanctions regimes are meaningful governance tools nor to what extent the studied sanctions regimes have achieved their intended objectives. Neither do I seek to provide a normative

assessment of sanctions decisions taken, nor to make a contribution to the exact impact on targeted individuals, populations or economies. Existing research has convincingly studied the effectiveness of sanctions (Cortright/Lopez 2000; Biersteker et al. 2013), the devastating effects of comprehensive sanctions on civilian populations (Hoskins 1997; Provost 1992; Mueller/Mueller 1999), how even targeted sanctions have unintended consequences (Eriksson 2010), the infringement of fundamental human rights of listed individuals (Kanetake 2008; Fassbender 2006), or how sanctions have contributed to the emergence of fraud, smuggling networks and organized crime (Andreas 2005; Wezeman 2007), for instance in the context of the UN Oil-for-Food programme (Califano/Meyer 2006). In this respect, I do not question whether sanctions decisions of the Security Council are particularly wise, normatively 'good' or 'just'.

1.2 State of the art

> "[F]ew institutions have generated so much commentary yet so little systematic analysis. (…) Most of the numerous texts and collections of essays on the United Nations contain a chapter on the Council or, more likely, on one or more of the peacekeeping, sanctions, or humanitarian measures it authorizes. But there have been remarkably few books devoted to the Security Council as an institution" (Luck 2007: xv).

To recapitulate, the phenomenon of primary interest lies in the consequences of establishing committees within the Security Council, endowed with substantial decision competencies, for the Council's logic of decision-making and the content of decisions taken. Against this background, I inquire whether or not the effects of the transfer of implementation decisions to a competent committee can and do also occur, if such competencies are transferred to an intergovernmental body with the identical group of members. The review of the relevant existing literature is intended to classify prevailing empirical and theoretical approaches to the study of the phenomenon and in a second step to evaluate the gap in the existing research. To proceed, in a first section I will organize the existing empirical literature on the dependent variable of interest and their explanations for the observable phenomenon.

In a second section, I will take a theoretical orientation and classify the existing and prevailing theoretical explanations for decision-making in international organizations.

1.2.1 The gap in the empirical literature

The review of the relevant empirical literature starts out with two striking empirical observations: (1) Eye-witnesses, former first-hand participants and observers have recognized an independent effect of decision-making embedded in complex governance structures of UNSC sanctions regimes even though the same group of actors is present at both the Council and the sanctions committees. Their observations clearly hint at a substantial difference in decision-making within sanctions committees in contrast to Council decision-making without recourse to a committee. As early as the first post-Cold War sanctions regime, a member of the UN Secretariat serving the Iraq sanctions committee from 1990 to 1995, Paul Conlon, argued that

> "[i]f Council and subsidiary organ practice were more clearly distinguished from each other, the political discretion of the Council, with its often questionable sanctions decisions, might appear more legitimate. Member states would have to accept politically driven sanctions decisions of the Council, but once those decisions were adopted, member states would have a more predictable system of norms and practices to fall back upon within the sanctions committees" (2000: 9).

Early on, Paul Conlon ascertained that sanctions committees perform an "administrative function" (1995b: 646) for "(…) matters of the type that in Western societies are handled by regulatory bodies" (2000: 31). Equally, David Bosco noted that "[t]he creation of that committee was a small but notable step toward an active governance role for the council" (2009: 157). For a later phase of this sanctions regime, Dutch diplomat Peter Walsum echoed similar findings and the "[r]ules and [c]onstraints" of sanctions committees (2004: 183). Former diplomats of the Yugoslavia committee, responsible for implementing comprehensive sanctions against Yugoslavia, similarly asserted that the "(…) the record of the Sanctions Committee's deliberations are full of references to previous cases which the Committee Members considered to constitute precedent (…)" (Scharf/Dorosin 1993: 823–824). Consequently, within this sanctions committee "[r]outine cases are handled

as a paper exercise" (Scharf/Dorosin 1993: 775). This account accords distinct function to the Council on the one hand, and to its committee that was tasked as regulatory body interpreting Council resolutions through follow-up implementation decisions on the other hand. The committee had established acceptable categories of exemptions through precedents and subsequently a more or less consistent application of these to similar cases (Scharf/Dorosin 1993: 783). For the Iraq committee, Paul Conlon further affirmed that "[d]elegates frequently asked the secretariat for information on previous practice, precedents and similar cases in the past. Occasionally delegates consented to decisions they had originally opposed in order not to upset previously established patterns and practices" (Conlon 1996b: 280).

More recent diplomats' accounts of UNSC sanctions committees administering targeted sanctions regimes echo these observations. During the annual 'Hitting the Ground Running' Workshop for incoming, outgoing and permanent members' delegations to discuss the Council's work, a diplomat stated that "(…) the sanctions committees acted as the de facto executive branch of the Security Council" (S/2006/483, p.6). Similarly, another diplomat noted that "[t]he subsidiary machinery, (…) should be technically-oriented and relatively autonomous" (S/2005/228, p.6). During the 2010 workshop, a diplomat stated that the subsidiary bodies involve "substantial legal work" (S/2011/484, p.22). Concerning the consensus procedure most visibly distinguishing the Council from the committees, several diplomats

> "noted that, because the committees operate on the basis of consensus, reaching agreement in them is often more difficult than reaching agreement in the Council. On the other hand, several speakers pointed out that in instances when consensus is difficult to reach in a committee, the Chair has the option of bringing the issue to the level of Ambassadors in the Council" (S/2010/177, p.19).

Regarding the role of the chairing delegation within the sanctions committees and the division of labor between the Council and its committees, one diplomat noted that many follow-up questions arise as a result of the act of delegation:

> "Should it be within the authority of the chairperson of a subsidiary body (…) to refer instances of impasse to the Council or should such a decision first be approved by the body in question? Furthermore, should chairpersons be allowed a certain degree of flexibility in their actions so that the work of a committee

> actually contributes to reducing the workload of the Council, rather than overburdening it with technical details?" (S/2009/192, p.17)

Strikingly, these practitioners' accounts, through focusing on the consequences of functional differentiation between Council and sanctions committees, implicitly utilize an institutionalist approach. German diplomat Hans-Peter Kaul observed that while Council members generally favor the principle of single-case decision-making and that states reject to be bound by previous decisions, simultaneously, he notes that there is a more or less consistent decision practice oriented on precedents (Kaul 1996: 98–99). Thus, Council members favor flexibility but are willing to restrain their decision-making if necessary.

(2) Sanctions regimes are – to an increasing degree – subject to regulation through Security Council resolutions, committee rules of procedures and precedents. First, Council resolutions are increasingly becoming instruments to steer committee decision-making with the adoption of detailed decision criteria and procedures. While this development has been noted for the prominent Al-Qaida/Taliban sanctions regime (Kanetake 2008), it is also observable in many others, less publicly scrutinized regimes. For instance, in the Democratic Republic of the Congo (DRC) sanctions regime, the Council over time specified the listing criteria for its sanctions committee from a vague "provision of assistance" in arms embargo violations (resolution 1493 (2003), para. 20) to a detailed list of ten specific listing criteria (resolution 2136 (2014), para. 4a-j). On humanitarian exemptions, the Council has provided detailed exemptions to its imposed assets freeze and distinguished four different categories of acceptable exemption requests, each subject to a distinct procedure in the Iran sanctions regime (resolution 1737 (2007), para. 13a-d). As regards arms embargo exemptions, the Council has provided detailed prescriptions to administer exemptions from the arms embargo to the Somalia sanctions committee (resolution 2093 (2013), paras 32-39; resolution 2111 (2013), paras. 4-17, Annex). In the context of aviation sanctions, the Security Council provided for detailed exemptions to the flight embargo on Iraq (resolution 670 (1990), paras 2-6). Second, the committees itself engaged in increasing self-regulation of their own rules of procedures ("committee guidelines"). For instance, while the initial Cote d'Ivoire committee guidelines had only 10 pages in 2005, over time they grew in detail to 18 pages in 2014. Similarly,

the Liberia committee guidelines increased from six pages in 2004 to 17 pages in 2010. Even the politically contentious DPRK committee increased the length of its committee guidelines from seven pages in 2007 to 11 in 2014 (all documents are on file with author). In the Iraq sanctions regime, the committee adopted a list of ten larger items groups that are to be exempted favorably from the comprehensive sanctions ("gentleman's agreement", on file with author). Third, below the level of formal rules, although the role of precedents is not directly measurable on a macro level due to the private nature of committee discussions, first-hand participants have highlighted their relevance for committee decision-making (Scharf/Dorosin 1993: 775, 823–824; Conlon 2000: 91, 100).

From these two observations, it is obvious that the decision situation for committee members appears to be substantially different to that of the Council, although the same group of members decides on both levels. In addition, the Council and the committee alike subjected decision-making within UNSC sanctions regimes to an increasingly complex system of rules. In this context, it is striking that the world's most powerful actors are evidently and increasingly so subjecting themselves to the effect of rules and precedents, although they frequently express their objection to be bound by anything but their own power.

Despite the extensive scholarship on the UN Security Council sanctions regimes, there are virtually no empirical-analytical approaches that provide a convincing account of the observed phenomena across a range of sanctions regimes. The existing empirical sanctions literature predominantly does not ascribe an independent effect to the governance structure of the sanctions regimes although practitioners describe a new development (Conlon 2000; Malone 2006; Malone/Chitalkar 2016). In the empirically informed literature on the UNSC, three different strands can be identified: policy-oriented literature, international law scholarship as well as theoretically informed approaches of the Security Council.

The policy-oriented literature lacks a systematic and theoretically guided understanding of the effects and workings of committee governance and the establishment of more complex governance systems in UNSC sanctions regimes. This strand of literature has intensively focused on the development of the UNSC sanctions practice, in particular after the end of the Cold War ('sanctions decade', see

Cortright/Lopez 2000; Cortright et al. 2002; Cortright et al. 2008a; Gottemoeller 2007; Wallensteen/Staibano 2005) and in the 2000s (Carisch/Rickard-Martin 2011; Weschler 2009-2010). The Council's sanctions practice has sparked two interrelated debates. On the one hand, a particularly intensive debate ensued around the humanitarian consequences of comprehensive sanctions against Iraq, Yugoslavia and Haiti on the general population of target states (Cortright/Lopez 2000; Cortright et al. 2002; Hoskins 1997; Sponeck 2000; Mueller/Mueller 1999; Duffy 2000; Malone 2008; Minear et al. 1994; Brzoska 2003). This was aggravated by the failure of the Iraq sanctions committee to remedy negative humanitarian consequences and the disastrous ill-management of the Oil-for-Food Program (Malone 2008; Califano/Meyer 2006). On the other hand, a second debate questioned the effectiveness of these types of UNSC imposed comprehensive sanctions regimes, however, neglects a more detailed analysis of decision-making within more complex sanctions regimes. This debate incorporates works on the effectiveness of sanctions in general (Hufbauer 2007; Pape 1997; see also special issue on sanctions in International Interactions), EU sanctions (Portela 2010), UN sanctions in particular (Doxey 2000; Chesterman/Pouligny 2003; Cortright/Lopez 2000; Rose 2005; Mack/Khan 2000), and sanctions busting and evasion strategies (Dodge 2010; Brooks 2002; Andreas 2005).

As a result of these two debates, the frequent calls for reform of comprehensive sanctions in favor of more targeted measures ('smart sanctions', see Brzoska 2003; Wallensteen/Staibano 2005; Cortright et al. 2008b) have led to sanctions reform processes (Brzoska 2001; Biersteker et al. 2001; Wallensteen et al. 2003) and respective sanctions reform at the UNSC level (Brzoska 2003; Biersteker et al. 2005; Farrall 2010; Cortright/Lopez 2004). Authors have consecutively analyzed the implementation and effect of targeted sanctions (Wallensteen/Grusell 2012; Eriksson 2010), and the increasing incorporation of expert bodies (Vines 2007; Boucher 2010; Boucher/Holt 2009; Rupiya 2005). Recently, the Targeted Sanctions Consortium has analyzed the effectiveness of Security Council targeted sanctions regimes (Biersteker et al. 2013; Biersteker et al. 2016).

The policy-oriented sanctions research touches upon the issue of sanctions committees, but – in the absence of a suitable theoretical framework - fails to

adequately and systematically address the functioning and effect of committee governance within the Security Council. There is research on single cases (Ward 2005 on the Counter-terrorism committee; Scharf/Dorosin 1993 on Yugoslavia committee; Conlon 2000 on the Iraq committee) or the interests of permanent members (Holslag 2008; van Kemenade 2010; Wuthnow 2010) and non-permanent members (Wouters et al. 2009; Løj 2007; Kaul 1996; Mimler 2013) within sanctions regimes. In the context of counter-terrorism, the literature dealt with the development and effectiveness of sanctions measures to combat terrorism (Heupel 2007; Rosand 2010; Kramer/Yetiv 2007), the domestic or regional implementation of legally-binding Council sanctions (Cortright 2009; Vries/Hazelzet 2005; Wallensteen/Staibano 2005), as well as the monitoring of sanctions implementation by sanctions committees (Rosand 2004). A particularly controversial debate emerged around targeted sanctions against individuals and entities suspected of being associated with transnational terrorism (Biersteker 2004), which led to several proposals for reforming targeted sanctions instruments (Biersteker et al. 2005). In this context, the Watson report studied how the Council's targeted sanctions regimes could be more adequately brought in line with the fundamental human rights of listed individuals (Biersteker/Eckert 2006, 2009; Eckert/Biersteker 2012). Here, it is consistently argued that the procedural enhancements of the Al-Qaida/Taliban sanctions regime have been entirely sparked by external pressure, such as reform proposals by UN member states (Biersteker et al. 2005) or court proceedings (Biersteker 2010). However, this argument cannot account for the observation that similar developments have taken place in other sanctions regimes in the absence of such pressure. Predominantly, the analysis remained on the macro level and often the Council and its committee were primarily regarded as one conceptual entity (Cortright et al. 2009; Cortright/De Wet 2010) so that the more complex decision structure of sanctions regimes was neglected.

The strand of literature informed by international law also does not lead to a theoretically-informed analysis of functional differentiated decision-making within sanctions regimes, though it does take sanctions committees more closely into its focus. The international law scholarship highlighted the legal basis derived from the UN Charter and the legal boundaries of Council prerogatives (Simma et al. 2012; Wet 2001; Angelet 2001; Peters 2012). Many areas of Council practice were analyzed

from an international law perspective, including the authorization of the use of force (Gazzini 2005; Blokker/Schrijver 2005), the development of peacekeeping (Bothe 2012), or the Council's role as a global legislator (Talmon 2005). With regard to sanctions committees, international law scholarship studied the Council's practice to establish subsidiary organs including standing committees, criminal tribunals, peacekeeping operations, and also sanctions committees, among others (Sievers/Daws 2014; Farrall 2007; Sarooshi 1999). In particular, the international law literature engaged in shedding light on the specific composition of subsidiary bodies, their mandates, the division of labor between and the generic competences of the organs of the complex governance structures of sanctions regimes in a detailed manner (Paulus 2012; Farrall 2007: 146–182, 2009). However, their analyses remained on the level of describing the competences of the Council and committee, while they did not engage in the empirical study of committee decision-making.

A particular controversy, which draws on international law scholarship (De Wet/Nollkaemper 2003), on the discussion about an emerging global administrative law (Krisch 2006; Kingsbury et al. 2005) and on political science informed concepts of accountability (Grant/Keohane 2005), has arisen over the question to what extend the sanctioning of individuals and entities infringes the target's fundamental human rights as well as whether and how procedural enhancements could ensure upholding these rights without compromising sanctions effectiveness (Gutherie 2005; De Wet/Nollkaemper 2003; Hovell 2016). Notably, Kanetake analyzed the mechanisms of the sanctions addressees, including member states and individuals, to hold the Security Council accountable by imposing external pressure to remedy the substantial intrusion into fundamental rights of targeted individuals (2008). These studies centrally focused on the fact that decisions of sanctions committees had been subject to national and regional court decisions, because they directly curtail the fundamental rights of listed individuals (Feinäugle 2010; Tzanakopoulos 2010; Keller/Fischer 2009). In the well-known "Kadi-case" (Yassin Abdullah Kadi vs. EU Council and Commission), the European Court of Justice annulled the Union's implementation of targeted sanctions on the respective individual, because the respective EU regulations violated the individuals basic due process rights (Goede 2011; Michaelsen 2010; Hoffmann 2008). In turn, the procedural enhancements by the Security Council have

sparked a debate about the suitability of those procedures to remedy the due process infringements (Prost 2012a; Margulies 2014; Sullivan/Goede 2013).

Similar to the policy-oriented literature, this strand of literature on targeted sanctions also primarily regards the Council and the committee conceptually as a unitary entity and does not ascribe specific analytical attention to the fact that sanctions regimes are processed by separate entities characterized by division of labor (Fassbender 2006; Bothe 2008; Feinäugle 2010). Above all, the major empirical explanation for the dynamics of UN sanctions regimes, predominantly the evolution of the Al-Qaida/Taliban regime, was mainly ascribed to pressure exerted from outside the UNSC: diplomatic initiatives (Cramér 2003; Miller 2003; Rosand 2004), reform initiatives of like-minded countries seeking reform (Biersteker et al. 2005; Kanetake 2008), domestic or regional court judgements (Biersteker 2010; Heupel 2009, 2013). Both, the policy-oriented as well as the international law inspired research cannot necessarily account for the practitioner's observation that the differentiated structures of sanctions regimes give rise to increasing regulation, even in the absence of external pressure. When external pressure was the key causal factor for the regulation of sanctions regimes in the wake of the humanitarian disaster in Iraq, why can one then observe regulation in the phase even before such this controversy emerged? And how can one account for committees that increasingly decide rule-based, such as the DRC sanctions committee, where the protection of individual rights of listed individuals was less scrutinized, or for committees deciding about decisions where no individuals were involved such as in nuclear-related dual-use commodity sanctions?

The workings of UNSC sanctions committees have not yet been empirically studied from institutionalist or organization theory approaches. Despite the extensive rationalist scholarship on the UN Security Council, the existing literature does not ascribe an independent effect to the governance structure of the sanctions regimes and fails to convincingly account for the empirical puzzle. In generally explaining Council decisions, these works have focused on factors of non-organizational nature, for instance, how great powers use the Council for information transmission (Thompson 2006a, 2006b, 2009), how great powers use threats and bribes as voting incentives (Vreeland/Dreher 2014; Kuziemko/Werker 2006), and the impact of outside options of great powers on Council decisions (Voeten 2001). As a result, the

Security Council including its subsidiary bodies is mainly conceptualized as a forum of great power politics (Bosco 2009, 2014a; Roberts/Zaum 2009; Luck 2007). Accordingly, from this perspective, Council *and* sanctions committee decisions can be sufficiently well explained by the interest constellation among its members.

In conclusion, so far a theoretically-informed empirical analysis of the effects of functional differentiation in the area of sanctions committees is missing. This analysis contributes to closing this gap. Thereby, the exploration of committee governance, which occurs by virtue of establishing subsidiary committees with substantial decision competencies, is in the center of the analysis. Insofar, the analysis seeks to explicate the sources of the development that practitioners have suggested for quite some time, namely that Council sanctions decisions become more legitimate, when member states including the great powers in their own interest accept that the implementation of sometimes problematic sanctions regimes occurs more rule-based and therefore becomes more predictable (Conlon 2000: 9; Angelet 2001: 71–72; Malone 2006; Malone/Chitalkar 2016).

1.2.2 The gap in the theoretical literature

Although the international relations scholarship has recently rediscovered international organizations as subject of inquiry, the structuration of decision processes within international organizations is under-specified in theories of international relations so far. In other words, existing accounts fail to provide theoretical instruments, which encompass the effects of international organizations and the emerging autonomy of the organization vis-à-vis its member states systematically, and at the same time are empirically applicable.

Neorealists treat international organizations fundamentally as epiphenomenal to state power and interests (Martin/Simmons 2013: 329; Reinalda 2013: 4–5). In this reasoning, the organization structure exerts no separate effect on the powerful member states, because decisions of international organizations entirely mirror the interests of powerful member states (Waltz 1979; Grieco 1988). In criticizing the pessimistic neorealist notions of institutions, the institutionalist scholarship considered international institutions as central unit of analysis, but focused

specifically on international regimes and less international organizations (Martin/Simmons 2013: 330–331). As such, institutionalist theory analyzed how states can achieve increasing and lasting cooperation under the conditions of an international system characterized by anarchy and which role international institutions serve in facilitating cooperation. In the context of rationalist cooperation theory, authors scrutinized various aspects of regimes. Particular attention was paid to regime creation (Axelrod 1984), their effects (Keohane 1984) and effectiveness (Young 1999), regime compliance (Underdal 1998) and the enforcement of agreements (Fearon 1998). All in all, scholars merely ascribed international organizations a subordinate function as a facilitator of or forum for interstate cooperation (Barnett/Finnemore 2008: 45–47; Hasenclever et al. 1997: 33–36; Rittberger et al. 2012: 18–25), so that organizational effects cannot be meaningfully captured.

More recent scholarship on international organizations in international relations ascribes organizational parts, mostly in the form of secretariats or courts, a central role in the decision-making processes of international organizations. Thereby, the central research question is how international organizations can become autonomous actors and what consequences this has. The rationalist principal-agent theory conceptualizes international organizations as ‘agents‘ that perform a specific function to benefit from centralization (Abbott/Snidal 1998; Reinalda 2013: 17). Ideally, principals hire an agent to perform a function that the principal would have done in their place, but there is a persistent danger that the agent deviates from what the principal intends the agent to do (“agency slack”, Hawkins et al. 2006b; Nielson/Tierney 2003: 245; Epstein/O’Halloran 1999: 25). When agents act undesirably, this behavior will result in agency losses for the principals (Hawkins et al. 2006b: 7–9). From the principals’ perspective, there is a demand for control (Nielson/Tierney 2003: 245). In principal-agent models control is conceptualized as hierarchical control mechanisms such as retaining the final decision authority, providing different oversight mechanisms and redesigning the agent’s competencies (Pollack 1997: 108–109). Standard principal-agent theory assumes that if the principals have the right tools of hierarchical control at their disposal, such as ‘police patrols’ and ‘fire alarms’ they can secure the proper functioning of the agent (Kiewiet/McCubbins 1993: 28–38; McCubbins/Schwartz 1984; Pollack 1997: 109–

112). Such approaches have been used to study the discretion of IO bureaucracies in designing new international organizations (Johnson/Urpelainen 2014), delegation within the European Union (Pollack 1997, 2003), the World Bank (Nielson/Tierney 2003) or the World Trade Organization (Elsig 2010; Stone 2011). Altogether, principal-agent theory fails to explain the effect of a decision system that employs the same group of actors simultaneously as principal *and* agent. In this approach, agency slack is entirely conceptualized as a negative aspect of delegation that does not account for the rationalizing effects of division of labor.

A second strand of principal-agent literature, modern regulatory theory, suggests delegating to an *independent* agent to enhance the credibility of the principal's commitment to a cooperation project (Majone 2001a, 2001b). A time inconsistency issue will occur in case an actor's optimal long-term behavioral choice differs from optimal short-term behavioral choice. Without being committed to a binding contract reflecting the long-term commitment, an actor will use its discretion to pursue its short-term interest (Majone 2001a: 62–63). This dilemma of time inconsistency can be solved exactly when the agent has a different incentive structure than the principal. In the case of inflation policy, the classical suggestion is to delegate inflation policy to an independent central bank, which is more inflation averse than its principal would be (Rogoff 1985; Majone 2001a: 65–66). The agent is intended to keep principals committed to the long-term interest of price stability and thus to solve the time-inconsistency problem (Hawkins et al. 2006b: 18–19). The major argument is that the agent *must* be sufficiently independent to freely implement the desired policy (Majone 2001a: 65–67). Such logic can be found in the delegation to courts (Alter 2008, 2006) and the European Central Bank (Majone 2001b). However, while this account highlights the relevance of creating specific incentive structures for the agent to reap long-term cooperation benefits, the account fails to explain how this can be achieved when the same group of actors controls all major decisions.

The constructivist, bureaucratic culture approach (see Reinalda 2013: 17–18), highlights that the internal functioning and autonomous action of organizational parts lies in the ability of the organization, in this case the IO secretariat, to define its own bureaucratic rules. International organizations are conceptualized as bureaucracies, whose authority is exercised through the creation of impersonal rules. The application

of these rules can become problematic when they lead to "self-defeating outcomes" and organizational pathologies (Barnett/Finnemore 2004, 1999; Weaver/Leiteritz 2005). A similar, but narrower concept focusing entirely on the secretariats of international organizations maintained that secretariats are in fact predominantly interested in problem-solving and not in maximizing their own mandate and power. Accordingly, differences in the autonomy of IO secretariats can be attributed to differences in organizational culture (Biermann/Siebenhüner 2009, 2013). Although these approaches attract the attention to an important part of international organizations, which potentially structure decision-making and organizational decisions, this explanation is solely directed to *one* part of the organization, while the non-bureaucratic parts of organizations move out of the center of attention. This is most valid for international organizations that are almost entirely characterized by an intergovernmental structure and the absence of a strong secretariat.

Overall, these approaches cannot be readily and meaningfully transferred to the Security Council. In the first instance, these accounts provide no meaningful explanation as to why we would expect to see different decisions when actors indeed delegate to themselves. Furthermore, even though these approaches analyze the scope of organizational autonomy, they narrowly focus on bureaucratic actors and Security Council is endowed with a particularly weak secretariat.

Furthermore, international organizations were conceptualized as system-theoretic social systems that develop their own inherent logic of operation, although they are dependent on their member states (Koch 2009, 2015; Ness/Brechin 1988; Ansell/Weber 1999). Thereby, organizations are often conceptualized as being autonomous per se, because they are operationally closed as specific forms of social systems and take decisions solely by recourse to earlier decisions. However, this conception remains largely theoretical so to preclude an empirical analysis of the type, scope and consequences of organizational autonomy.

A promising starting point for the present analysis is the existing scholarship on functional differentiated international organizations and delegation to committees. The so far defined discussion centered on the delegation of decision competencies to committees. Thereby, the literature notably dealt with the delegation of decisions within the EU comitology. These studies argued that the transfer of decision

competencies to executive committees has a decisive impact on the governance of the particular issue area (van Schendelen 1996; Schaefer 1996; Joerges 2006). Accordingly, international organizations were analyzed as decision systems, which allowed for explaining the emerging autonomy and the significantly affected decisions by structuring decision processes. Based on institutionalist considerations, these approaches maintained that because of the functional differentiation of the decision process and the connected transfer of single case decisions to committees, participating actors could no longer achieve their preferred outcomes through power-based bargaining (Gehring 2003). Furthermore, this scholarship has empirically shown that the transfer of decision competencies caused the rationalizing effects of committee decision-making that led to problem-adequate governance. This applies especially to the field of 'low-politics' including environmental politics (Gehring/Plocher 2009), protection of species (Gehring/Ruffing 2008) or international development (Kerler 2010) as well as the European Union (Gehring 2002, 2003; Gehring/Kerler 2008).

While these approaches provide a suitable basis for the analysis of inner-organizational decision processes, they predominantly have been applied to international organizations operating in 'low-politics' that are considered to be more amenable to rule-based decision-making. The concept has not yet been applied to entirely intergovernmental structured international organizations that are least prone to more institutionalized forms of cooperation (Rittberger et al. 2012). Simultaneously, these approaches primarily treat the rules as exogenous factor, meaning that if the rules from the hierarchically superior level are unsuitable, the committee cannot work. This analysis seeks to contribute to this literature by showing, why the rules are created in the first place and only then, how they affect decision-making. In addition, existing approaches assume that actors always have an interest in rule-based decisions, which is not to be expected in security organizations. Similarly, the function of rulemaking must not necessarily be differentiated among two different bodies, but it is reasonable to assume that the effects also occur when the same group of actors decides about rules first and then applies these rules to single cases. Finally, these studies so far did not pay attention to conceptualizing precedents as functional equivalents of formal rules.

To date, a fundamental conception of international organizations, which can draw conclusions about how even simple structured international organizations can affect the behavior of rational actors and thus the content of decisions and at the same time is empirically applicable, is missing. While the previous research on functional differentiation provides a useful starting point, this is particularly true for the borderline case of an organization in which the member states essentially delegate the main workload to themselves.

1.3 The argument

In this study, I seek to account for the effects of delegating decisions to sanctions committees in UN Security Council sanctions regimes. I develop a theoretical model of committee governance in international organizations that shows how even rational behaving states can be committed to rule-based decision-making without excluding them from the decision process. The core argument is that in contrast to a uniform decision process, a group of states that delegates decision competencies to a committee will produce an entirely different decision situation in ways that favors rule-based decision-making, even if the same group of actors adopts all major decisions. The argument is developed in three steps.

At the outset - based on the assumption that states are the central actors, which behave rationally but suffer from informational deficits - I outline a concept of international organizations that identifies their primary function in continuously adopting collective decisions for their members. International organizations gain influence on joint decision-making insofar as they structure decision processes and create institutionalized negotiation settings that open new or preclude and alter existing options. This occurs even in the absence of powerful bureaucracies or courts.

In a second step, I develop a baseline model of power-based decision-making in a uniform decision process to contrast the effects of committee governance. In a uniform decision process, a group of actors decides about a number of aspects of the cooperation project without recourse to a committee. In this case, states will bargain over the content of grand political decisions and seek to move the negotiated solution closer to their ideal points. The decisions taken in a uniform decision process mirror

pure bargaining outcomes and reflect the constellation of interests and the relative power among the actors. Accordingly, powerful actors reject unfavorable decisions unless negative outcomes are compensated through linkages.

In a third step, I argue that a group of actors provides incentives for rule-based decision-making if they divide a bargaining process over a comprehensive package deal into a process negotiating general decision criteria (rulemaking) and a decision process in which a stream of decision requests is processed in light of these criteria (rule-implementation). A group of actors that delegates implementation decisions to a committee will have to focus on adopting rules to be applicable to many future single cases. Even though states will also strive to move the outcome on many future decisions closer to their ideal point, they cannot pursue all their future case-specific preferences in the choice among different sets of rules. Hence, actors gain an interest in adopting generally applicable rules that promise to result in widely acceptable solutions on a large number of implementation decisions.

A group of actors deciding about small and separate implementation decisions in the committee stage, which cannot be accumulated to decision packages, will face reoccurring coordination situations that create the demand for focal points unless a member favors blockade over a cooperative solution. Because not every committee member can equally benefit from each single-case, the committee stage creates the danger of blockade if all members seek to achieve their preferred outcome. Thus, the committee stage creates the demand for focal points. In this situation, externally provided decision criteria or rules derived from earlier similar cases (precedents) provide focal points to determine acceptable from unacceptable implementation decisions. Consequently, actors gain an incentive to accept some unfavorable single-cases as long as overall cooperation project yields positive outcomes. Should committee members reorient their behavior on generally applicable rules or precedents, the regulatory outcome will be increasingly rule-based and consistent.

On a whole, the concept of committee governance reveals that delegating decision competencies to a committee generates fundamentally different incentives for a group of actors in ways that favor rule-based decision-making in comparison to a uniform decision process. The concept conforms to a broad range of international

organizations and is applicable to the circumstances of committee governance in UN Security Council sanctions regimes.

In its empirical application to five UNSC sanctions regimes (Iraq, Al-Qaida/Taliban, the Democratic Republic of the Congo, Sudan and Iran), I find substantial evidence that the transfer of decisions to a sanctions committee in fact leads to more consistent and rule-based decisions provided that the permanent members of the Security Council share a common interest in the functionality of a sanctions regime.

The empirical results are robust across a range of preference constellations, sanctions measures or content of decisions. Importantly, the effect is rooted in the comparable decision situation across sanctions regimes, namely, to decide about many similar single cases over time. Hence, the rule-based nature of committee decision-making is not just observable in the Al-Qaida/Taliban sanctions committee that has attracted particular attention due to the infringement of fundamental human rights of affected individuals. Notably, the rule-based decision-making is equally observable in the Iraq sanctions regime, where the committee mainly decided about humanitarian exemptions from the economic embargo on Iraq. Beyond that, the Iraq sanctions regime shows that the effect occurred even in the early phase of the regime and preceded the critique on the humanitarian consequences of comprehensive sanctions. The same applies to the Iran sanctions regime that imposes targeted sanctions against individuals implicated in the Iranian nuclear program, but also non-proliferation related commodity and 'dual-use' sanctions. Similarly, committee governance affected decision-making in the Democratic Republic of the Congo sanctions regime, where the conflict of interest is not between the Western powers and China and Russia, but between the three Western permanent members.

The empirical results show that if the Council delegates decision competencies to a new sanctions committee and retreats to guiding its work, the rules that arise are consistent and do not favor any particular powerful member. This effect can be equally observed in case the sanctions committee engages in selective rulemaking to overcome specific decision problems.

The sanctions committee in turn takes a much narrower perspective and decides about separate implementation decisions under the framework provided by the Security Council. The committee's track record in all studied positive cases shows that member states align their requests to the rules and committee members tend to avoid rejecting convincing proposals. The analysis provides evidence that powerful members frequently accept decisions they originally opposed in order to uphold the functionality of a sanctions committee. Altogether, the regulatory outcome of sanctions regimes is remarkably rule-based.

The studied sanctions regimes highlight remarkable features of committee governance in the UNSC. The Iraq sanctions committee reveals that without Council rules, committee members sought to use precedents as functional equivalent source of focal points to overcome decision blockades. A systematic large-n analysis of 8,200 committee decisions confirms a rule-based decision practice of the committee based on previously adopted precedents, even though two powerful committee members initially refused to be bound by rules or rules emerging from precedent. Committee governance also caused rule-based decision-making in the Al-Qaida/Taliban sanctions committee. The Council increasingly subjected the committee with a dense set of rules for the processing of committee decisions on listing and delisting of individuals and entities suspected of being associated with Al-Qaida. The effects of committee governance had already resulted in remarkably consistent decisions, even before the introduction of a remarkably strong review mechanism (Office of the Ombudsperson), which provided additional incentives for rule-based decision-making. The DRC sanctions committee also presents a confirmatory case for committee governance. Even powerful committee members dropped decision requests, if no reliable and up-to-date information could be assembled. In effect, decision requests that fulfilled the evidentiary requirements were successfully presented, even if they stemmed from less powerful non-committee members.

Three findings can be reconciled with the postulated causal mechanism of committee governance, but point to its restricted applicability. First, the analysis also highlights that all permanent members need to share a preference for a coordinated solution within a sanctions regime over blockade. In the Sudan sanctions regime, which represents a baseline case, China consistently rejected the notion of Security

Council sanctions on Sudan and was indeed interested in committee blockade. Accordingly, although proactive members demanded to sanction individuals obstructing the Darfur peace process, the sanctions committee has not listed any individuals. Instead, the proactive states referred their listing proposals to the Council, which adopted a package resolution listing four individuals (resolution 1672 (2006)).

Second, the empirical results demonstrate that resolutions on the one hand and delegation to a sanctions committee are two principled mechanisms to pursue a sanctions regime. The Iran sanctions regime provides evidence that delegation to a sanctions committee led to increasingly rule-based decisions in comparison to decisions observed in the uniform Council decision process. Here, the Council initially retained decision-making competencies that it delegated to a committee in later phases of the sanctions regime. Since 2006, the Council decided about listing of individuals and entities implicated in the Iranian nuclear program and only in 2012 delegated these implementation decisions to its sanctions committee. However, as theoretically expected the Council has not separately decided about listing decisions but accumulated many aspects of the sanctions regime into package decisions. Only from 2012 onwards, the committee took over the listing task, which yielded rule-based decisions entirely different to the Council decision packages.

Third, the mechanism of committee governance only becomes causally relevant, if the committee members have an actual interest in the decisions taken so that there is a certain conflict of interest among committee members. In the absence of such a conflict, committee members do not have incentives to challenge submitted decision proposals, which prompts the danger of blockade and the associated willingness to engage in rule-based decision-making in the first place. In the first episode of the Al-Qaida/Taliban sanctions committee, the members caused a laissez-faire decision-making mode according to which listing requests were simply accepted regardless of their content, evidence and origin without causing blockade. This empirical finding highlights that the degree of rule adherence by sanctions committee members presupposes the existence of a conflict of interest among Council members and their willingness to challenge non-conforming decisions. Indeed, in other sanctions regimes, committee members seriously exercised such mutual control, for instance,

through the US and the UK in the Iraq sanctions regime, or Russia and China within the Iran sanctions regime.

1.4 Relevance

This study provides a rare systematic, theory-guided and comparative analysis of regulatory decision-making within UNSC sanctions regimes that exceeds the prevailing single case studies (Conlon 2000; Ward 2005; van Walsum 2004). Although the empirical findings of the five case studies cannot be broadly generalized, there is reason to believe that the results are equally transferable to other cases. This is rooted in the ability of the theoretical approach to explicate the fundamental sources of a development that practitioners have suspected since the first post-Cold War sanctions regime (Koskenniemi 1991; Scharf/Dorosin 1993).

This study will make both a theoretical and an empirical contribution.

This study contributes to the ongoing debate about the role and effect of international organizations in international relations theory and alludes to a previously unaccounted source of organizational effects. While the literature ascribed organizational effects mostly on specific characteristics of organizations such as particularly powerful agents (Hawkins et al. 2006a), courts (Alter 2008), or the role of bureaucracies (Barnett/Finnemore 2004, 1999), in this analysis I present a causal model that captures the sources of these effects through structuration of decision processes, although these effects are unintended by member states. In fact, this conception encompasses the effects of strong agents, because it derives its explanatory power from a broader view on organizational structuration of decision processes, where agents or bureaucracies are only one potential source of influence. At the same time, this theoretical concept does not conflate organizational influence with agency slack or organizational pathologies, which are necessarily directed against the member states' interests.

The analysis also contributes the literature on credible commitments through delegation (Majone 2001a, 2001b). The application to an international organization that is regarded as least prone to institutionalized forms of cooperation, demonstrates

that the effects of functional differentiation occur in the absence of delegation to secretariats, scientific committees or other independent agents, even in deliberately political and purely intergovernmental institutions. In the borderline case of a 'high politics' organization that differentiates decision competencies between two bodies with identical membership and thus with the same constellation of preferences, other explanations based on the presence of strong agents are less relevant. Instead, it is maintained that the emergence of a differentiated governance structure provides incentives even for the great powers to commit themselves to more rule-based decision-making without depriving these actors from the opportunity to adopt political decisions. Therefore, principals can be credibly committed to their long-term interests through committee governance, even if such committees have the identical membership. As a result, members of an international organization intending a credible commitment gain a politically feasible substitute to delegating competencies to independent agents or even courts.

The analysis further theoretically contributes to the debate about the causes and consequences of functional differentiation in international organizations that have mostly covered 'low politics' institutions (Gehring/Ruffing 2008) or the European Union (Gehring 2003). In particular, this study goes beyond the prevailing literature by highlighting that besides formal rules, precedents may serve as functionally equivalent sources of focal points within international organizations, for instance in case rules are absent or ambiguous.

The analysis empirically contributes to the understanding of how the Security Council works. Through explicating the effects of delegating decision competencies to committees with identical membership, the empirical analysis seeks to convincingly account for the patterns of committee decision-making within the Security Council (Conlon 2000; Malone 2006). Thereby, for the first time, the effects of delegating decision competencies to sanctions committee become subject to a systematic and theory-driven analysis.

The analysis empirically contributes to the understanding of the broader dynamics of Security Council sanctions regimes. The analytical framework allows for drawing more accurate conclusions about the sources and consequences of regulation within sanctions regimes. The theoretical framework highlights the structuration

effects and altered decision situations that are inherent to any organization that applies a decision-making system of divided labor. At the same time, the analytical framework is entirely compatible with arguments that empirically explain the increasing regulation of sanctions regimes with externally applied pressure, because the sources of such pressures are rooted in the structuring effects of committee governance.

This analysis empirically contributes to the sanctions debate. By focusing on the structuring effects of committee governance, the approach can systematically shed light on how the far-reaching sanctions decisions of the Security Council come about. Thereby, the relationship between the Council and the committee and the division of labor between the two, which is often treated as a black box, moves into the center of the analysis. Then, the concept is capable of explaining how the committee decides about individual single-cases within Council sanctions regimes. Gaining a deeper insight into decision-making on sanctions may enhance the understanding of sanctions effectiveness (see for instance, Biersteker et al. 2013; Bianchi 2007; Wallensteen/Grusell 2012) or how potential humanitarian consequences could be prevented or mitigated (Eriksson 2010; Farrall 2007). Beyond the confines of the Security Council, this concept also promises to explain decision-making in the European Union sanctions regimes if they separate the elaboration of criteria and the subsequent application to single-cases (Giumelli 2013; Portela 2010; Vries/Hazelzet 2005).

Finally, this analysis adds to the theoretically-informed studies of the Security Council. These approaches mainly focus on non-organizational factors, for instance the Council's role for information transmission (Thompson 2006b, 2006a, 2009), the influence of outside options (Voeten 2001) or the threats and bribes of powerful members vis-à-vis opposing Council members (Vreeland/Dreher 2014). In contrast, this study pays attention to the institutional structures that shape and influence decision behavior and promises to explain, if not predict, UNSC decisions beyond the influence and interests of powerful Council members.

1.5 Structure of the book

In addressing the research question, the analysis proceeds in five major steps. In the first step, a causal mechanism and hypotheses for decision-making within functionally differentiated international organizations are explicated (chapter 2). In the second step, the methodological approach of theory-testing process tracing is elaborated, outlining the case selection strategy, the operationalization of dependent and independent variables and the applied data sources (chapter 3). In the third step, the specific institutional design of functional differentiated UNSC sanctions regimes and the general opportunity structures that result from their particular institutional setup are evaluated (chapter 4). In the fourth step, I investigate for five UNSC sanctions regimes with differentiated decision-making, whether or not the postulated causal mechanism is present and works as expected. In the chapters five to nine, I analyze sanctions regimes applying individual targeted sanctions (Al-Qaida, DRC, Sudan, and Iran) and those with other differentiated decision-making procedures (Iraq and Iran). In the fifth step, this thesis is concluded by summarizing empirical and theoretical findings as well as providing policy implications (chapter 10).

2 Rule-based Committee Governance through Rules and Precedents as Focal Points – A Causal Model

In this chapter, I develop a causal model of how committee governance affects decision-making and the content of decisions even if the same group of actors decides about all major aspects. In other words, I elaborate how committee governance can systematically provide incentives for actors to engage in rule-based decision-making. In doing so, the causal model is contrasted against the postulated effects of a unitary decision process without recourse to a committee stage. I argue that the separation of the decision-making process into two separate stages, rulemaking and subsequent rule-application, creates specific incentive structures in both stages. While actors in the rulemaking stage will face constraints of consistency and uncertainty, actors in the committee stage are usually confronted with a stream of similar and separate decisions, which preclude adding requests to negotiated packages. Therefore, actors in the committee stage have incentives to engage in rule-based decision-making, even if they have to accept some decisions that violate their case-specific interests. Because actors in the committee stage will likely prefer different solutions, they find themselves in coordination situations that create demand for focal points if actors seek to avoid stalemate. In this situation, actors will turn to previously provided decision criteria, and if those are unavailable, adopt precedents that are applicable over a range of future cases as focal points.

In this constellation I identify two ideal types of decision-making, which both come with significant consequences for decision-making. On the one hand, the actors could pursue decisions in a unitary decision process without recourse to a committee stage. This situation provides almost no constraints and actors will likely bargain over large politicized decision packages that are very important for the cooperation project. Hence, actors will heavily invest into moving the negotiated solution closer towards their ideal points. Accordingly, power resources of actors are the major source of influence. In essence, one would usually expect this this basic mode of *power-based decision-making*. On the other hand, actors could opt for a differentiated decision-making process of committee governance which separates rulemaking and subsequent rule-application, for instance to process implementation decisions within a

committee. Thereby, a group of states would separate a larger political project into small decisions that are each of limited importance and only their collective outcome produces utility for actors. Consequently, actors gain an incentive to accept some unfavorable, but small decisions as long as overall cooperation project yields positive outcomes. In essence, I argue that committee governance transfers the dynamics of a group of states towards a logic of *rule-based decision-making*.

The causal model is developed in five steps. First, I outline two theoretical assumptions, namely that states are the primary actors and states act rationally but suffer from informational deficits (section 2.1). In the second step, I develop the foundations of a concept of international organizations, which shows that the primary function of such organization is the collective production of decisions (section 2.2). In the third step, I argue that uniform decision processes offer little structuring effects and provide incentives to pursue situation-specific interests in all cases by means of negotiating package deals. Accordingly, decisions taken in a uniform decision process would reflect bargaining among powerful members (section 2.3). In the fourth step, a model of committee governance is developed. I maintain that separating rulemaking from subsequent rule-application affects the decision situation in both stages in ways that favor rule-based decision-making (section 2.4). In the fifth step, I argue that the causal model is suitable to study the effects of committee governance in the United Nations Security Council (section 2.5). The chapter concludes with a summary of the main arguments.

2.1 Theoretical assumptions

The theoretical argument rests upon two assumptions following the rationalist meta-theoretical tenet to the study of international organizations that understands its role as "explain[ing] both individual and collective (social) outcomes in terms of individual goal-seeking under constraints" (Snidal 2013: 87). In essence, actors are self-interested, goal-seeking and aspire to maximize their individual utility under given constraints (Hasenclever et al. 1997: 23–27; Marx 2010: 47, 54–57). Only within the following assumptions the argument put forward here gains analytical leverage.

The first assumption is that the central, but not the sole actors in the international system are states. Neorealist (Waltz 1979; Grieco 1988) and institutionalist (Hasenclever et al. 1997: 23–27; Stein 1982) scholarship has traditionally viewed states as the "principal actors" (Abbott/Snidal 1998: 6; "crucial actors", Keohane 1984: 25) in an international system characterized by anarchy. Institutionalism has highlighted how cooperation problems among state yield institutionalized forms of cooperation such as international regimes and international organizations (Abbott/Snidal 1998; Krasner 1983; Koremenos 2016). In essence, states give rise to such cooperative projects. Nevertheless, non-state actors have entered the conceptual landscape (Snidal 2013: 101), either from a constructivist perspective including secretariats (Barnett/Finnemore 2004, 1999) and norm entrepreneurs (Finnemore/Sikkink 1998; Price 1998), or institutionalist approaches including environmental NGOs (Raustiala 1997) and empowered IOs (Abbott/Snidal 1998). Though all these actors might be influential, crucially, states are the gatekeepers that equip them with decision functions or admit them to the negotiation process. The focus on states as major actors seems justifiable in as much states specifically allocate non-state actors with opportunities for action within international organizations (Koremenos 2016: 14) and can often revoke their authority as required. Still, I also wish to shed light on the circumstances and to what degree states allow non-state actors to participate (Gehring 2002: 41–42, 2003: 66).

Second, a 'wide' conception of rational action is used meaning that actors are rational, seek to maximize their utility under given constraints but suffer from an informational deficit (Opp 1999: 173–176; Snidal 2013: 87–90; Lindenberg 1990: 744–745; Elster 1989: 97–99; for a discussion of rationality in international relations, see Kahler 1998). I assume that actors have complete and consistent order of preferences and seek to pursue them in strategic interactions of bargaining and negotiation with the ultimate goal to maximize their own utility. Actors choose among different behavioral options through assessing their likely consequences. Collective action will depend on the bargaining power of actors. Thereby, actors follow a 'logic of consequences' (March/Olsen 1998: 949–951; Risse 2000: 3–4; Fearon/Wendt 2002: 60). Narrower versions of rational action contend that actors are 'fully informed' and omniscient (Opp 1999: 174), a highly demanding and unrealistic assumption. In contrast, I assume there are limits to information under conditions of

complexity and uncertainty so that actors cannot always know what they want in the future and completely estimate the consequences of all their actions (Scharpf 1997: 19–22; Hasenclever et al. 1997: 140–142). To pursue their preferences, actors will seek to reduce informational deficits by generating information including from secretariats or experts, while they gain an interest in rules as sources of information (Scharpf 1997: 38–40). In essence, the concept is open to actors that behave differently, for instance following a logic of appropriateness (March/Olsen 1998: 951–952) or a more or less defined collective interest, but it is reasonable to assume that they do not. The causal model developed here must be applicable to rational utility maximizers; otherwise, the organization would not be able to generate rule-based decision-making on a whole. In other words, the explanatory power is strengthened if even egoistic utility-maximizers stick to rules.

2.2 The foundations of international organizations

The foundations of an international organization concept build upon the observation that formal international organizations represent a particular form of cooperative arrangements in international relations. Interested member states create formal international organizations as to realize one or several cooperation projects (Abbott/Snidal 1998: 4–5; Koremenos 2016). Thus, they are functional entities. This does not imply that the organizations' members or other relevant actors do not have diverging particularistic interests. Indeed, the creation of a formal international organization rests upon a political compromise between actors with a more or less heterogeneous preference constellation. In that sense, the instrumental or functional starting point for concept of an international organization is compatible with rationalist cooperation theory (Keohane 1984; Stein 1982). In essence, international organizations must be so advantageous in achieving cooperative gains for the constituting actors so that they do not forfeit their legitimacy (Abbott/Snidal 1998: 5). Conceptually, the existence and the decisions of international organizations are therefore closely tied to the interests of its constituting member states.

In contrast to other cooperation facilitating international institutions, the most basic function of international organizations is to adopt collectively binding decisions (Koch 2009: 439; Gehring 2009: 71). Whereas cooperation can also "emerge" from

individual and uncoordinated behavior (Axelrod/Keohane 1985: 244; Axelrod 1984; Sugden 1989; 'spontaneous institutions', Keohane 1989: 4; Daase 1999: 224–231) without collective decision-making (Kratochwil/Ruggie 1986: 765) or international regimes in form of treaties, the structure of international organizations allows adopting decisions within a certain cooperation project as needed. The contracting parties do not need to negotiate about all decisions at once, but can focus on those decisions that are presently achievable and required. Instead, other more remote decisions can be deferred. International organizations are created in fields with a frequent demand for decisions and allow for adapting to changing circumstances or reacting to external shocks. As such, international organizations are characterized by being incomplete contracts (Milgrom/Roberts 1990: 61–62; Hawkins et al. 2006b: 16–17; Cooley/Spruyt 2009). The central element of organizations are decisions: "[O]nce started, organizations do nothing else than decision making" (Koch 2009: 439). The concept highlights that international organizations emerge from interaction among member states, but can be distinguished from the member states and their interaction (Dörfler/Gehring 2015: 57–58).

In essence, international organizations can be conceptualized as decision-making systems (Rittberger et al. 2012: 71–75, Easton 1965b: 29–33, 1965a: 111–112; for an application to the EU, see Schmidt 2013). An international organization forms a political system that converts inputs from its environment ('demands' and 'support') into decisions (output). The output then potentially affects new input via a feedback loop (Rittberger et al. 2012: 72; Easton 1965a: 111–112). Concerning the input, all interventions made by members or relevant actors can enter and affect the decision process. Without any signals from the environment the organization is bereft of its task, because in the absence of such signals, there can be no decisions. Therefore, the organization depends on the input from relevant members. At the same time, the incoming information is processed and decisions are adopted according to organizational rules and only according to such rules, which structure the decision process. While actors may strive to alter such rules, they can hardly ignore them (Gehring 2009; Koch 2009: 435).

Even simple international organizations structure decision processes through adopting decisions on membership, scope and decision rules (Gehring 2009: 68–69,

2002: 79–100), often part of extensive pre-negotiations (Risse 2000: 20; Sebenius 1983; Gross Stein 1989). The organizational rules determine how decisions are taken from now on. First, the organization sets boundaries on its membership. In fact, it makes a considerable difference if an intervention is made by a member or a non-member so as to affect decisions of the organization. For instance, some organizations restrict access to the negotiation only to subgroups of states along certain predefined criteria. Second, organizations restrict the scope of negotiable issues (Koremenos et al. 2001: 770–771). Actors seek to delimitate issues that are subject to the negotiations to avoid overwhelming complexity. The creators can decide to have a rather broad scope and other seemingly unrelated issues might be linked to compromise (Sebenius 1983: 292–300). However, the more actors are involved, the more incentives actors have to limit the number of issues (Gehring 2002: 81–86). Third, actors need some principled mutual understanding on how future organizational decisions will be taken (Koremenos et al. 2001: 772). Because members need to know how collective agreements are adopted, they have to decide about how the input is transferred into organizational decisions. In principle, organizations can adopt decisions unanimously, by consensus or by any form of majority vote (Rittberger et al. 2012: 78–79). In fact, deciding on principled procedures defines which inputs become influential (Gehring 2002: 94–98).

Organizational structuration effects can be traced back to two fundamental mechanisms. In the first instance, such structuration effects result from the transfer of decision competencies to subsidiary bodies (Gehring 2003: 93–97; Dörfler/Gehring 2015: 58; also Keohane/Martin 2003: 102–104). Thereby, the decision process becomes functionally differentiated. Functional differentiation emerges “where the subsystems are defined by the coherence of particular types of activity and their differentiation from other types of activity, and these differences do not stem simply from rank” (Buzan/Albert 2010: 318; Luhmann 1983: 242). Because any simple negotiation system will be less efficient, more complex international organizations will comprise of a series of different organs that each serve a different function (Rittberger et al. 2012: 71–88). Functional differentiation even emerges when a thematic working group focuses on a subset of issues or an expert committee appraises certain factual questions. Likewise, every transfer of decision authority to secretariats, international bureaucracies or courts creates a system of divided labor.

Within the organization's decision process, such organs perform particular functions. Actors in every sub-process will eventually create a specific decision rationale, simply because it has a particular membership, scope and decision rules that affects how inputs are transferred into decisions. In that sense, every suborgan can process different sorts of inputs be it scientific or legal, among others. The fundamental principle of functional differentiation does not only apply to modern societies (Buzan/Albert 2010), but also to organizations (Hawkins et al. 2006b: 12–20).

In essence, in a functionally differentiated organization actors can no longer influence the content of the agreements in a single comprehensive decision, but can only influence a certain part of the overall decision (Gehring 2002: 162). Functional differentiation often results in distributing decision competencies authority among different organs with own procedures. Thereby, the organization will establish a sub-process, for instance a committee, to deal with a subtask. This committee focuses on a specific issue area and operates under own formal or informal procedures. The committee will have a significantly narrower scope than the main conference. As is well known from international negotiations, the number of negotiated issues has an effect on the preference constellation within a negotiation and therefore also on the chances of cooperation (Sebenius 1983: 292–300). In addition, the procedure in any suborgan of an organization has a strong impact on who can actually influence decisions. Hence, which type of subsidiary body is selected for a task has an impact on an actor's influence on decision-making (Schaefer 1996: 144). However, this logic also applies if the same group of actors processes two separated tasks one after the other. If the overall decision is split into a number of separate but smaller decisions that together produce the outcome, the actors can no longer affect the outcome by a single collective decision. To influence the overall outcome actors have only the possibility to influence the outcomes of the portioned sub-processes. As a result, separating the decision-making process into several sub-process will likely modify the overall decision and thus significantly affect actor's behavioral opportunities (Gehring 2002: 162, 170–174; Gehring/Ruffing 2008: 125).

In the second instance, organizations create structuration effects already through the mere fact that organizational decision-making processes take place against the background of previous decisions (Gehring 2009: 71–75; Koch 2009: 440;

Keohane/Martin 2003: 99–104). Within the organization, the initial rules on membership, scope and rudimentary decision procedures can be followed, amended or replaced, but they cannot be ignored. More than that, every new decision has to fit into the complex of already existing decisions. This creates a sequential decision process in which the already pre-existing decisions structure following phases of decision-making. While courts frequently settle disputes by recourse to earlier judgments (Koch 2009: 440–444), this applies equally to non-juridical organizations. Overall, organizational decision processes are typically characterized by path dependency insofar as previous decisions affect later decisions (Dörfler/Gehring 2015: 60).

All in all, international organizations will gain autonomy vis-à-vis its constituting member states as actors choose different collective decisions that they would not have chosen in an undifferentiated setting. If the organizational decisions can no longer be explained by the mere constellation of preferences among actors, but only through taking modified decision processes into account, then the organization must have at least some autonomy. While international organizations obviously vary in their degree of autonomy (Rittberger et al. 2012: 15–34), the degree of autonomy depends on the extent to which the organization interferes between the interest constellation of members and the organization's decisions. In addition, to become an autonomous entity, the organization must dispose of relevant governance resources so as to make a difference for its addressees (Dörfler/Gehring 2015).

In sum, this fundamental concept of international organizations highlights that international organizations are designed to fulfil a continuous demand for decision-making and affect the decision-making and the decisions taken by two fundamental sources, which provides different opportunities for action. On the one hand, functional differentiation allows actors to influence the overall outcome only in smaller parts. On the other hand, decisions are always taken against the background of previous decisions.

2.3 Power-based decision-making in a uniform decision process

A group of actors facing a cooperation problem can opt for a basic power-based decision-making mode in a uniform decision process, which serves as a baseline to assess the impact of a differentiated decision process. In essence, the group of actors would decide about all aspects of the cooperation problem without recourse to a committee stage. Thereby, the utility of the political cooperation project to produce favorable decisions for its members on a larger scale rests with the ability of the actors to adopt grand political decisions. In this process, actors have incentives to invest heavily in give-and-take bargaining processes as their aim is to move the negotiation outcome closer to their preferred solution. Hence, bargaining power becomes the major means of influence. Such negotiations would be subject to the logic of coordination within uniform negotiation settings. Accordingly, powerful actors will not accept unfavorable decisions unless costs are compensated through linkages.

In case the group of actors favors to decide about all decisions within a unitary decision process, one can reasonably expect actors to employ a strategy of bargaining over the content of decisions. Bargaining as a concept refers to a negotiation process where actors exchange demands reinforced by promises, threats and more or less credible exit options to achieve their objectives and maximize their utility (Risse 2000: 8; Elster 1989: 50–96; Odell 2013: 380–383). As such, negotiators will seek to produce additional welfare beyond the status quo. In addition, they have to bargain over the exact distribution of gains along the pareto frontier (Scharpf 1997: 118–124; Odell 2013: 387; Gehring 2002: 103–106). Under these circumstances, actors will enter the negotiation with maximalist bargaining positions and subsequently seek to achieve a negotiated solution of diverging positions by means of threats and step-wise offers. Actors have to make concessions because others have bargaining power, but seek to make as little concessions as possible (Elster 1989: 68–74). The extent of bargaining power thereby depends on the credibility of a selective exit from the negotiations. Actors with a credible exit option (also ‘outside option’) can threaten to exit negotiations if the costs associated with the exit are small. In turn, with increasing bargaining power, an actors has to make fewer concessions (Elster 1989: 69, 74–82; Gehring 2003: 84–85; Kerler 2010: 90–92; Voeten 2001).

Under circumstances of diverging interests, actors will seek to nest single issues of asymmetric distributive effect through linkages into a grand decision package that is very important to its members and thus actors will seriously bargain over distributing costs and benefits (Koremenos et al. 2001: 770–771). A negative payoff for one party on one issue can be compensated through a positive payoff on another negotiation issue. Hence, accumulating completely unrelated issues into packages provides a viable means to ensure decision outcomes in spite of contradicting interests (Sebenius 1983). This way, while many decisions might be unfavorable for one negotiation party and thus accepting those would be irrational, it may be completely rational if the whole package of decisions is beneficial (Gehring 2003: 91–92; Scharpf 1997: Chapter 6).

In a uniform decision process, the content of decisions resulting from these grand bargains are characterized by the fact that potential gains of cooperation will be distributed on the basis of the constellation of bargaining power (Moravcsik 1998: 60–67). In fact, these decisions will reproduce the power distribution and thus neglect the interests of less powerful actors (Scharpf 1997: 122–123). The bargaining power of actors will depend on their position relative to the status quo, and to what extent credible outside options are available. In case their position is close or equal to the status quo, a veto actor has strong bargaining power and can request considerable concessions or linkages to compensate for eventual losses. The decisive criterion of a successful bargaining process lies in achieving a solution that is beneficial for all actors, and not that the decision is particularly wise or efficient in implementation. Consequently, a uniform decision process provides little incentives to cease a bargaining strategy. Even though rational utility maximizers might be in need to gain information in case of uncertainty, which cannot be meaningfully produced in bargaining settings, after the information is available, actors will have incentives to pursue their interests with all power resources available (Gehring/Kerler 2007: 223; Gehring 2003: 84–90; Holzinger 2001: 419–422; Odell 2013). During the final negotiations, only bargaining will shift the outcome in a desired direction. Thus, we cannot expect actors to cede to bargain in a uniform decision process, if bargaining actually produces superior utility (Gehring 2003: 86).

Conversely, as regards the content of decisions, we can expect that implementation decisions taken within the framework of uniform bargaining processes will not primarily reflect problem-solving considerations or withstand criteria-based judgement. Bargaining processes are not suitable to produce justifiable solutions as problem-solving requires actors to forgo pursuing those alternatives that they favor but instead to weigh alternatives against a given standard to find those that fit the standard best. Bargaining processes substantially inhibit problem-solving processes and actors will not accept arguments as relevant information because they cannot expect others to be changing their preferences based on arguments. Actors will not engage in exchanging arguments if they believe to achieve their interests better in a simple bargaining process (Gehring/Ruffing 2008: 125–128; Gehring/Kerler 2007: 222).

Therefore, power-based decision-making serves as a baseline model that I expect to observe in a uniform, undifferentiated decision process and against which the effects of decision-making in differentiated settings will be assessed. Hence, if actors pursue decisions solely in one unitary decision stage, I expect that decisions will mirror pure bargaining outcomes that reflect the interest constellation and the relative power among the states. These decisions will accumulate any relevant aspects of the cooperation project into larger political bargains. In this scenario, powerful actors will not accept unfavorable decisions unless they can compensate costs through linkages. Consequently, the content of the decisions taken will entirely reflect the power distribution among the group of actors.

2.4 Rule-based decision-making in functionally differentiated negotiation settings

A group of actors significantly alters the decision situation and provides incentives for rule-based decision-making if they divide a bargaining process over a comprehensive package solution into two separate decision stages of deciding about rules which are subsequently applied to a number of singe cases. For instance, this is the case when the group of actors refers implementation decisions to a committee. Thereby, these actors chop a larger political project into small decisions, which each are of limited

importance. The political utility of the cooperation project, however, rests with the decision system's ability to produce favorable outcomes on a larger scale. In this process, actors have to trade-off the overall utility of the cooperation project with their incentives to invest power resources to avoid every small implementation decision that runs counter to an actor's interest. Therefore, actors may simply accept negative decisions, provided that the organization produces reasonable decisions on a whole.

In contrast to unitary decision processes, a functionally differentiated decision process systematically affects the ability of rationally behaving states to enter situation-specific interests and provides incentives to submit well-founded decision requests aligned to mutually acceptable rules (Gehring/Ruffing 2008: 126). In fact, functionally differentiated organizations are suitable to limit the desire of rational actors to bargain for distributive gains in favor of assessing the merits of single-case decision requests vis-à-vis substantive decision criteria. Organization theory suggests that the structuring effects of functional differentiation results from splitting a formerly uniform decision process into several sub-decision processes with specific but limited functions. Whilst the institutional separation of tasks, for instance between a main conference and a committee, is a viable strategy, we would even expect such effects to be present if the same group of actors processes all aspects of a cooperation project, since these effects stem from the structuration of decision processes and not from the exact composition of the organs (Dörfler/Gehring 2015: 62).

The structuration effect rests upon the separation of *rulemaking* and *rule-application* (Gehring 2003: 98–103). In essence, actor's behavioral options will be significantly altered when rulemaking and subsequent rule application, are distributed to two different decision-making processes, even if both functions are processed by the same group of actors. The separation of rulemaking and rule-application will initially defer a range of possibly contentious aspects, especially those that deal with the specific implementation of the cooperation problem and will instantly reduce the number of unresolved issues (Gehring 2003: 95–96). For instance, in case the group of actors mandates a committee with developing solutions for the cooperation problem, there will be an almost automatic separation between a level on which actors define the very cooperation goal and a level on which implementing decisions

are taken. In this differentiated setting, both organs will specialize on certain aspects (Mayntz 1988: 19; Ruffing 2011: 64–65). This will create a modified form of "institutional bargaining" (Young 1994: 98–106) that significantly influences the calculus of decision-makers (Gehring/Ruffing 2008: 126; Gehring 2003: 99).

2.4.1 The constraints of rule-making

In case a group of actors divides a previously uniform decision-making process into a stage negotiating general rules and a stage in which a number of applications are processed in light of these rules, actors operate under significantly altered constraints. In regulatory decision-making, actors usually separate bargaining over a comprehensive political decision about the content of a regulatory arrangement from many technical follow-up implementation decisions. In fact, by separating rulemaking from rule-application, actors in a first stage circumscribe their own scope of functions so as to adopt the general framework for later decisions and subjects actors entirely, or at least partially, to the constraints associated with the adoption of generally-applicable rules. In particular, in the rulemaking stage actors forfeit the possibility to overcome conflicts of interest by means of comprehensive package solutions. Instead, actors have to concentrate on guiding the subsequent decision process on implementation decisions through substantive and procedural decision criteria. As a result, functional differentiation converts the actors negotiating a general institutional setup from a logic of adopting mutually acceptable package deals to a logic of rulemaking.

In a decision situation that requires the adoption of generally applicable decision rules, actors operate under systematic constraints that limit their ability to pursue their case-specific interests through bargaining over rules. Instead, they gain an interest in negotiating over a set of *general* procedural and substantive criteria that will guide the decision making process in the rule-implementation stage (Gehring 2009: 77). In fact, there is a "categorical difference" (Brennan/Buchanan 1985: 28) between the choice among different sets of rules and the choice among different options within the previously accepted rules. Unlike case-specific decisions, decisions about institutional rules apply across a broader range of contexts and longer timeframes (Young 1989: 361–362; Brennan/Buchanan 1985: 29). At the same time, achieving the goal of

cooperation depends on the ability of both processes to adopt a sufficient number of small-scale implementation decisions. Specifically, in case a committee decides about small implementation decisions by consensus, the latent danger of committee decision blockade threatens the achievement of the cooperation goal. As a result, even rational utility-maximizers skeptical of rules gain an interest in guiding the rule-application stage through rules (Gehring/Ruffing 2008: 126–127; Gehring/Dörfler 2013: 569–571).

The adoption of generally applicable rules subjects the actors to two pivotal constraints. First, if actors have to adopt generally applicable decision criteria without knowing their future situation-specific preferences, they operate under a 'veil of uncertainty' (Buchanan/Tullock 1965; Brennan/Buchanan 1985; Rawls 1971: 136–142). At the time of rulemaking, actors do not yet know which of the potential options would best serve their interests because they are required to define rules that are applicable to individual cases that are yet unknown to actors. Brennan/Buchanan argue that "[a]s both the generality and the permanence of rules are increased, the individual who faces choice alternatives becomes more uncertain about the effects of alternatives on his own position" (Brennan/Buchanan 1985: 29–30). As long as actors are insecure about their preferences, they will be subject to the veil of uncertainty. In such a situation, actors are not sufficiently certain about their particularistic preferences so as to identify specific rules which would promise an advantageous position vis-à-vis other actors in the future. Hence, actors cannot simply apply their bargaining power because they are uncertain about which specific option out of a number of available options would match their particularistic interest best (Gehring 2003: 104; Kerler 2010: 112).

For the individual actor, it becomes rational to pursue a strategy that promises to reduce the probability to result in negative future consequences. If actors can hardly estimate which consequences a particular rule will have on a range of possible cases, they will gain an interest in elaborating rules that will generally produce acceptable implementation decisions (Brennan/Buchanan 1985: 29–30; Rawls 1971: 136–137; Young 1989: 362). The more actors are uncertain about their preferences in future cases, the more we can expect that actors are deprived of pursing a bargaining strategy effectively, as long as they do not have similar preferences across single

cases (Ruffing 2011: 66–67). Although Brennan/Buchanan make this argument for individual citizens facing a constitutional choice, Young argues that the mechanism equally applies to collective state actors (1989: 362; Gehring 2003: 104).

Second, even if rulemaking actors know their future interests well, they are subject to a considerable consistency requirement. Should actors know the preferences in every single case that is to be decided and should they have different preferences in these cases, they can hardly pursue and realize all those case-specific interests. As substantive and procedural rules have to be applicable to a whole range of single case decisions, case-specific opportunistic decision-making is virtually impossible (Brennan/Buchanan 1985: 28–31). In fact, actors that only decide about general rules cannot pursue their case-specific interests because such single cases are no longer decided in this stage decision-making. Instead, they have to represent a bargaining position that aggregates over a number of single-case decisions (Gehring 2003: 105). Therefore, each actor is forced to aggregate several case-specific interests into one consistent bargaining position. If actors are under such constrains they will naturally have to sort out extreme case-specific considerations (Brennan/Buchanan 1985: 29–31). So even rational utility maximizers will gain an interest in choosing a bargaining position that reflects a median case and produces an acceptable outcome across a range of single cases (Gehring 2003: 105, 2004: 689–690).

The rules resulting from rulemaking processes among powerful members are not automatically fair or isolated from bargaining power, simply because these rules materialize from decision-making processes among actors that bargain to achieve rules most favorable to them. When deciding about a generalized rule, the actors will indeed bargain for rules that maximize their utility when the rules are applied to specific cases in the committee stage. However, no generalized rule will satisfy all of the actor's case-specific preferences. On the contrary, the influence of the single actor is restricted on influencing the package of rules that guide the decision-making process over a range of cases (Gehring 2003: 105–106; Brennan/Buchanan 1985: 29–31).

The constraints of rule-making are applicable to rule-making in the main conference and a committee alike. The effects are also likely to occur if a group of actors first decides about substantial and procedural criteria and afterwards processes

single cases according to such criteria within the same organ. In essence, the group of actors would first decide about the broader undertaking to adopt rules and would only then address the individual case-specific decisions in a second stage. Thus, it would first act as a main political body responsible for rulemaking and then act as a committee responsible for rule-implementation.

In conclusion, actors delegating implementation decisions to a committee stage will be restrained to adopting consistent rules that are applicable to many future single cases in the implementation stage. The institutional process in the rulemaking stage systematically excludes all too detailed regulation of the decision-making process and precludes introducing all case-specific positions into the negotiation about the rules. Because actors cannot pursue all situation-specific interests in all future cases, even rationally behaving states gain an interest in adopting generally applicable rules that promise to result in widely acceptable solutions on a larger number of implementation decisions.

2.4.2 The constraints of rule implementation in the committee stage

Separating the elaboration of rules from adopting detailed implementation decisions significantly alters the decision situation of actors in the committee stage. Typically, actors in the committee stage are confronted with a stream of implementation decisions that cannot be meaningfully integrated into decision packages. Under these circumstances, actors cannot block every single decision that runs counter to their interests without compromising the functionality of the decision making apparatus on a whole. This particular situation prompts the issue of committee governance (Baylis 1989: 15–20; Sartori 1987: 227–232). Hence, actors gain an interest in aligning decisions to mutually accepted rules or precedents because they have to make a trade-off between marginal case-specific benefits and undermining the functionality of the governance system.

The committee decision situation is substantially different to that of the rule-making stage in as much as actors in the committee stage concentrate on adopting many small implementation decisions. The committee is usually confronted with a steady-stream of decision requests and so exists in a “continuous decisional context”

(Sartori 1987: 228). Furthermore, all these decision requests are usually of a similar and dichotomous nature (accept/reject). In fact, the decision requests will be relatively separated from each other so that they also have to be processed separately. Moreover, not every member will equally benefit from single-case decisions that typically have an asymmetric distributive effect, while each of these implementation decisions is of limited importance. Simultaneously, actors in the committee stage adopt decisions against the background of a more detailed set of decision criteria provided in the rulemaking stage. Even if these rules were previously made by the same group of actors, such decision criteria are likely to influence decision-making in terms of possible choices, unless the group of actors is prepared to ignore these criteria and to undermine the previously established separation of rulemaking and rule-application.

In the rule-implementation stage, the danger of actors introducing their situation-specific interests into the decision process is pertinent, in particular because the constraining mechanisms associated with rulemaking, the consistency requirement and the 'veil of uncertainty', are absent. As actors decide about single cases, they can define their interests well and thus are able to identify their benefits and costs associated with a particular single case decision (Brennan/Buchanan 1985: 29). In the committee stage, rational actors will seek to maximize their individual utility in every case before them. In addition, enforcing rule compliance will be problematic if actors prefer conflicting solutions to the cooperation problem.

2.4.2.1 The logic of coordination situations in the committee stage

The actor's decision-making calculus within the committee stage under consensus will entail the constant danger of a decision-making blockade (Rittberger et al. 2012: 101–102). Since the distributive effects of a single decision will most likely be asymmetrical, a single decision will hardly ever be of equal advantage for all committee members alike. Since not all members can realize their preferred outcome on each of the decision taken, the effectiveness of the committee stage is compromised if actors seek to pursue their situation-specific interests in all cases. An obvious solution to this problem would be to balance individual actor's benefits and

costs associated with single case decisions through accumulating larger packages in a bargaining process. If single cases within the committee stage are small, well-separated and of a dichotomous nature so as to preclude putting them into packages, the decision situation in the committee stage will create the pertinent danger of blockade if all actors equally pursue their situation-specific interests on decisions that will likely disadvantage some committee members over others (Gehring 2003: 109; Gehring/Ruffing 2008: 127).

Assuming a decision situation facing only one discrete decision, state actors who strive to maximize their utility can decide without any restrictions if they want to support or if they want to obstruct that single decision. Actors will calculate the payoff of every possible outcome and select their decision according to what maximizes their utility. In this case, they would have incentives to sideline any available decision criteria if they do not promise to increase their utility in this single decision. As not all actors will equally benefit from a single decision, this situation resembles a Prisoner's Dilemma constellation, characterized by free-riding that would result in a pareto-inferior collective outcome. If actors strictly follow their situation-specific interests, they will not be able to coordinate their behavior and, as a consequence, endanger the realization of cooperation gains (Gehring 2002: 176–177).

The calculus of actors in the committee stage will be significantly altered if they will have to process not only one discrete decision but a whole chain of single case decisions (Gehring/Ruffing 2008: 126–127; Kerler 2010: 111). In such a situation that exhibits the structure of an iterated game, actors will face many discrete single decisions in many different rounds of negotiation across time. Actors will have to consider that they not solely decide about a single case but that every single decision is part of a chain of decisions that have to be taken in the future. Consequently, achieving the overall goal of cooperation depends on continuously adopting separate decisions at different points in time. The overall utility for an actor therefore depends on each of the single cases including the expected utility of future cases. When deciding about a single case, actors have to take the effects of their choice today on the future cases into account. Actors have to expect that their defection in one game will be sanctioned by other actors in the following games (Tit-for-tat, see Axelrod

1984). However, actors can also expect that their cooperation will be honored with cooperation by other actors in the future (Gehring 2003: 108).

In such a situation an actor has two options. On the one hand, an actor can still decide to support or object to a single case in order to maximize its payoff. However, the actor also has to face cost associated with its short term gains in the single case as the overall goal of cooperation may be undermined. The actor can no longer expect other actors to be cooperative in future decisions. Achieving short-term gains in one case will result in losses in a number of cases in the long run. On the other hand, the actor can decide to accept a single-case decision, even if it runs counter to its own case-specific interests. Although this decision does create some losses in the short-term, it promises to increase the likelihood that the cooperation project will result in positive gains in the long run. We can expect that actors facing such a decision situation will favor cooperation if the "shadow of the future" is large (Gehring et al. 2005: 58).

This situation resembles the structure of a mixed-motive coordination situation (Stein 1982: 309–311; Snidal 1985: 931–936) in which actors have a common interest in cooperation and prefer agreement over non-agreement but have diverging preferences for the particular solution (battle of the sexes). Hence, actors collectively have to select one solution out of a range of potential solutions. These situations exhibit multiple equilibria (Schelling 1960: 57–58; Garrett/Weingast 1993: 181–187) and are characterized by the fact that they do not structurally emphasize one particular solution to the coordination problem. At the same time, because each single decision request follows the logic of a coordination game, realizing the cooperation project depends on finding a solution to the sum of single-cases. Because not all actors can always achieve their case-specific interests in the committee stage, an actor ultimately has to accept some decisions that violate its preferences, unless the actor indeed prefers blockade over coordination. In effect, assuming differing preferences, some actors will be victorious, while others will have to compromise. The challenge for actors lies in determining, which of the potential solutions to pick, i.e. when to compromise.

2.4.2.2 Coordination situations in the committee stage create demand for focal points

In the committee stage, the issue of multiple equilibria in coordination situations with diverging interests creates demand for focal points (Schelling 1960; Garrett/Weingast 1993) that indicate when actors have to compromise and when they can pursue their situation-specific interests. Actors in the committee stage will only accept short-term losses when they can reasonably expect that other members will accept losses in a future decision that are unfavorable to them. Without a focal point, an actor that does not want to tolerate short-term loss will have no incentives to give in and will eventually endanger the entire cooperation project. Accordingly, the decision situation creates the demand for decision rules that guide decision-making in the committee stage. This issue is aggravated when decision-makers face a steady stream of decisions to be taken which will result in pressure for routinization and standardization of procedures (Gehring/Ruffing 2008: 127–128).

The major interest of the study of focal points is how actors arrive at solutions in coordination situations with multiple equilibria (Martin/Simmons 2013: 331; Keohane/Martin 2003: 99–104; Garrett/Weingast 1993: 181–185). Actors in favor of agreement over stalemate require a mutually accepted focal point which denotes a certain solution out of several potential solutions. Since coordination situations exhibit two or even several equally plausible solutions (Nash equilibria), a focal point indicates one specific solution that is "salient" (Mehta et al. 1994: 661–662; Schelling 1960) or "sufficiently obvious" from the other solutions in one dimension relevant to the actors (Sugden/Zamarrón 2006: 615–617). It is the essence of cultural traditions such as etiquette that it is a solution (out of many possible) to a basic coordination problem solved by mutual expectation: everyone expects everyone else to adhere to the agreed rules (Schelling 1960: 91). This logic also applies to mixed-motive games, where individuals have a common interest in avoiding an uncoordinated solution but have divergent preferences on the coordinated solution. In an experiment, where two players need to divide 100$ between themselves, each player wishes to increase the individual share. When the players cannot communicate, both individuals will likely choose to split the amount in half. This solution exemplifies that the 50:50 solution is unique among all possible solutions and serves as a focal point (Schelling 1960: 61–63).

The solution to the coordination problem is that individuals will consult additional information to bring expectations into convergence which is dependent on the context of the situation (Schelling 1960: 57). A focal point is taken from beyond the decision-situation precisely because coordination situations are structurally underspecified and do not naturally offer a point of reference as to where actors are expected to compromise and where they can pursue their situation-specific interests (Ringe 2005: 733; Sugden/Zamarrón 2006). As a result of the consulted information, the actor's perceived structure of the game is different from the formal structure of the game. Focal points can enable the actors to pick one particular solution out of an amorphous range of possible options, precisely because of a particular feature of the chosen solution. This move becomes a rational choice for actors (Schelling 1960: 68–69). To solve the coordination problem actors have to identify a method for "equilibrium selection". The existence of a focal point narrows the available range of identifiable solutions (Huth et al. 2013: 92–93). Focal points translate an abstract cooperation problem into specific behavioral expectations in a given decision situation, even when actors have diverging interests. The role of focal points is especially crucial under circumstances of complexity and uncertainty, where appropriate information may serve as "pivotal mechanisms" to coordinate mutual expectations (Garrett/Weingast 1993: 176–179).

In the committee stage, actors can resort to two sources of powerful focal points to solve the coordination problem. First, *externally provided substantive and procedural decision criteria* lend themselves as potential candidates for such focal points in coordination situations (Garrett/Weingast 1993: 181–185; Huth et al. 2013: 93; Martin/Simmons 2013: 331-333, 339), even if they have been previously elaborated by the identical group of actors. In case a previous decision stage determined a set of substantive and procedural rules, actors in the committee stage gain a strong interest in accepting these rules as focal points to guide their decision-making. In fact, these rules are easily available and produce no additional transaction costs. Essentially, these rules adopted under the constraints of rulemaking precisely reflect the long-term goal of cooperation. However, as a prerequisite, all relevant actors in the committee stage, especially those that would otherwise block the decision process, must accept a focal point. Alternatively, actors could simply agree to sideline the previously agreed decision criteria by accepting other information as

focal point. Yet, this strategy presupposes finding a formal or informal rule that all members can agree on instead of the existing rules. However, making a decision on a single case has to be logically preceded by a stage of determining the rules before making choices within these rules similar to pre-negotiations in simple negotiations (Brennan/Buchanan 1985: 6; Gross Stein 1989). If actors seek to sideline the decision criteria by negotiating a new set of rules, they will have to face additional transaction costs (Gehring/Dörfler 2013: 570). Accordingly, it is likely that actors in the rule-application stage follow externally provided rules not because they are unbiased, just or equally preferred by all members, but because these rules provide a readily-available solution to a coordination problem.

Second, in case there are no sufficiently precise decision criteria available, actors in the committee stage have to resort to precedents as functionally equivalent source of *internally created focal points*. In the absence of decision criteria, actors will need other focal points to address a coordination problem that would lead to blockade if unsolved. Basing decisions on similar but earlier accepted or rejected decision requests offers a meaningful and easily available solution to a coordination situation (March/Olsen 1989: 21–38; Schelling 1960: 67–68). An earlier decision – regardless of how it came about – will inevitably provide a yardstick for later decisions of a similar kind because it reflects a collective decision by the same group of actors in the same institutional context (Schelling 1960: 135). Actors will find it difficult to select an alternative solution that is more widely acceptable than the precedent. The repeated application of a precedent to a number of like single-case decisions will create a decision practice and increase the pressures for consistent decision making (Snidal 1985: 936). Repeatedly accepted precedents are likely to create lasting behavioral expectations (Schelling 1960: 64, 91, 260; Young 1989: 359–366), which are determined by what is usually done in such a case (Schelling 1960: 57). The mechanism will become increasingly self-sustaining as those actors, which have accepted unfavorable decisions in favor of realizing the long-term goal of cooperation, will insist that others, which face unfavorable decisions, will also adhere to accepted decision practice (Gehring 2003: 109). In fact, similar to rules, an established precedent creates collective expectations about acceptable follow-up decisions both positively (i.e. what is an acceptable proposal) and negatively (i.e. what is an unacceptable proposal). In addition, processing decision proposals

according to the established precedents promises to reduce the transaction costs associated with decision-making in a large number of cases that are complex but have limited utility each (Coleman 1988: 213; Stone 2011: 12).

As a result, the decision situation in the committee stage generates substantial constraints and provides strong incentives to rule-based decision-making. Existing rules and precedents will favor those actors that submit rule-conforming decision proposals and disadvantage actors that submit non-conforming decision requests. Actors that advocate a rule-conforming solution will expose deviant proposals as arbitrary, whereas those actors favoring a solution non-conforming to the rules will struggle to draw on a similarly persuasive account (Stone Sweet/Sandholtz 2004: 259; Huth et al. 2013: 94; on the similar concept of 'rhetorical entrapment', see Schimmelfennig 2001). On the contrary, actors will refuse to accept a collective solution that violates existing rules unless this step is necessary, for instance because the type of case is unprecedented or because the proposal does not meet established preconditions. However, in case of deviating preferences, a disadvantaged group of actors is unlikely to accept a solution that is not in conformity with the rules. Actors without stakes will tend towards options that will be justifiable in light of the decision criteria because they do not have any incentives to permanently violate the mutually agreed rules (Gehring/Ruffing 2008: 127; Gehring/Kerler 2008: 1007). While actors in the committee stage might prefer power-based decision-making over rule adherence, rules serve as a means to overcome decision blockades in coordination situations because rule violation in one case will likely trigger reciprocal objections. Therefore, because power-based decision-making is likely to elicit blockade, rule-based decision-making provides a viable alternative. Consequently, if actors have an interest in avoiding an uncoordinated solution, they will tend to accept some negative decisions of a small scope provided that the costs of such case-specific decisions are small in comparison to the benefits of the larger cooperation project. Thus, even rational utility maximizers have incentives to accept a solution following a focal point as long as they favor agreement on this specific choice over stalemate.

The constraints of rule application inherent to committee governance provide implications for behavioral choices of actors submitting single-case decision proposals. While proponents of a certain decision have incentives to align the

decision proposal to established decision criteria or rules emerging from a particular precedent, opponents need to argue for the difference of the decision proposal vis-à-vis the established practice (i.e. rule/precedent is not applicable). The costs of blocking a decision will increase if its content is like to previously accepted cases. Repeatedly accepted decisions will increase the introduction of similar decision proposals insofar actors are aware of such a decision practice. Actors will tend to submit decision proposals that they can reasonably expect to succeed and will tend to avoid submitting proposals that have little chance of succeeding. This way, the emergence of mutually accepted decision criteria encourages to submit proposals that can be justified in light of the decision criteria, whereas developing behavioral expectations discourage submitting unjustifiable proposals (Huth et al. 2013: 93). Furthermore, proponents of a certain decision proposal will seek to incrementally change the decision practice to aligning new but similar decision proposals to previously accepted decisions (Gerhardt 2005). Decision proposals are likely to be slightly different from one another. As such, members of the committee have to decide whether a decision proposal sufficiently resembles an existing decision criteria or rule emerging from precedent or whether the differences in degree justify setting a new precedent. Actors will seek to deliberately set new precedents to better achieve their expected utility.

The constraints of rule application also provide implications for behavioral choices of actors deciding about decision requests in the committee stage. Actors in the committee stage have incentives to align their decisions to substantive and procedural decision criteria or rules emerging from precedent. When deciding about a case, actors will have an interest in applying the same substantive criteria across cases, as not to provoke reciprocal shifting of criteria on their own decision requests in future decisions. Crucially, the decision situation provides incentives to accept decision requests that are justifiable in light of decision criteria, even if a state has diverging situation-specific interests, provided that the functionally differentiated organization produces favorable decisions. As a result, one could expect that the quality of a request vis-à-vis the decision criteria becomes a decisive factor in explaining the decision outcome.

Alternatively, actors in the committee stage could confront the danger of decision blockade by rubber-stamping all decision requests in a laissez-faire decision-making mode (Gehring/Dörfler 2013: 570–571). This is likely to occur if actors do not have substantive interests in the single cases and thus no incentives to challenge submitted decision proposals. Then, actors are not in a coordination situation, which prompts the danger of blockade and the associated willingness to engage in rule-based decision-making in the first place. Thus, the constraining effects of rule application will only occur if actors in the committee stage have an interest in the decisions so that there is a certain conflict of interest among actors. Accordingly, rule adherence in the committee stage depends on the existence of a conflict of interest among actors and their willingness to scrutinize, challenge and eventually block non-conforming decision requests.

These theoretical considerations can be summarized in the following two hypotheses:

Hypothesis 1: If a committee of states processes separate and asymmetric decision proposals of limited scope that preclude accumulation into decision packages, committee members are expected to abide by given substantive and procedural rules, even if these rules contradict situation-specific preferences of some committee members.

Hypothesis 2: If a committee of states processes separate and asymmetric decision proposals of limited scope that preclude accumulation into decision packages and substantive and procedural rules are absent or ambiguous, committee members are expected to abide by rules derived from precedents, even if such rules contradict situation-specific preferences of some committee members.

The expected effects of committee governance are likely to occur regardless of the specific institutional design. Assigning rulemaking and rule-application to different bodies, for instance between a main conference and a committee, or even to independent agents, institutionalizes the separation of functions. However, the same effect is likely to occur if both functions are processed by the same group of actors

within the same organ. The altered decision situation essentially arises from separating decision functions even within the same body, not from the establishing supplementary organs. This should equally apply to precedents as internally produced sources of focal points because adopting a precedent logically presupposes that the case is applicable to future cases.

The developed causal model of committee governance is subject to three scope conditions. First, the effects of committee governance will only occur if decision proposals are entered separately. Otherwise, these could be accumulated into packages until negative payoffs have been sufficiently compensated. Second, the effects of committee governance will only occur if the actors have to process a stream of single-cases that are each of relatively limited importance to decision-makers. Without such a stream of decisions there are no suitable rules or precedents because decisions are not similar in kind. On the contrary, if decisions are singular and isolated issues – whether technical or not – that are of vital interest to actors, actors will heavily invest in bargaining to realize favorable distributive effects. Third, the effects of committee governance only occur if actors find themselves in a coordination situation, which gives rise to the influence of focal points. In case one member favors a decision blockade over rule-based decision-making, rules and precedents lose their power as focal points because focal points no longer signify a mutually acceptable solution. In fact, any coordinated solution will be outside the win-set of the member and thus that member will likely stall. In all three cases, I would expect to observe a logic of power-based decision-making.

In summary, the decision situation in the committee stage provides strong incentives for rule-based decision-making. The decision situation is substantially different if actors are faced with the task to take numerous separate implementation decisions in light of provided criteria. Actors tasked with rule-implementation are deprived of their ability to compensate losses through accumulating single issues to packages. In this case, actors find themselves in a mixed-motive coordination game that entails the serious risk of a decision blockade should every actor pursue its situation-specific interests in all cases. Instead, to realize the goal of cooperation, committee members require focal points. Externally produced substantive and procedural criteria are suitable and easily available. Alternatively, actors could use

similar cases as precedents. The process will be self-sustaining if actors operate under a well-established decision practice because actors will expect that rule violation will be reciprocally sanctioned. As a consequence, because alternatives to rule-based decision-making are unattractive, the committee will essentially operate in a rule-based decision-making mode.

2.5 The logic of committee governance in the United Nations Security Council

The outlined causal model of committee governance applies to a multitude of international organizations and is neither specified to a certain decision procedure nor to a particular organization. I would expect the causal mechanism to be present in circumstances in which a stream of separate implementation decisions with limited scope has to be processed regardless whether or not the organization operates in high or low politics and independent of the policy area. Moreover, the decision functions of rulemaking and rule-application do not need to be separated between two bodies, but can equally be processed, albeit separately, by the same group of actors within the same organ. The causal model also relates to a multitude of organizations regardless of the question whether or not the decision-makers intend to produce the effects of committee governance or simply delegate decision competencies to reduce the workload and increase efficiency.

The Security Council conforms to the outlined fundamental conception of international organizations. Apart from being a UN principal organ, the Security Council can be conceptualized as a separate international organization even though it lacks institutional features usually linked to organizational autonomy, such as a strong secretariat (Barnett/Finnemore 2004, 1999; Biermann/Siebenhüner 2009, 2013; Elsig 2010). States created this institution with a defined membership (UN Charter art. 23). The scope is clearly defined and formally restricted to the field of international security. In essence, the Council serves as a cooperation project with the "primary responsibility for the maintenance of international peace and security". As an organization, the Security Council has the major task to continuously adopt collectively binding decisions for all UN member states (UN Charter art. 24, 25). The

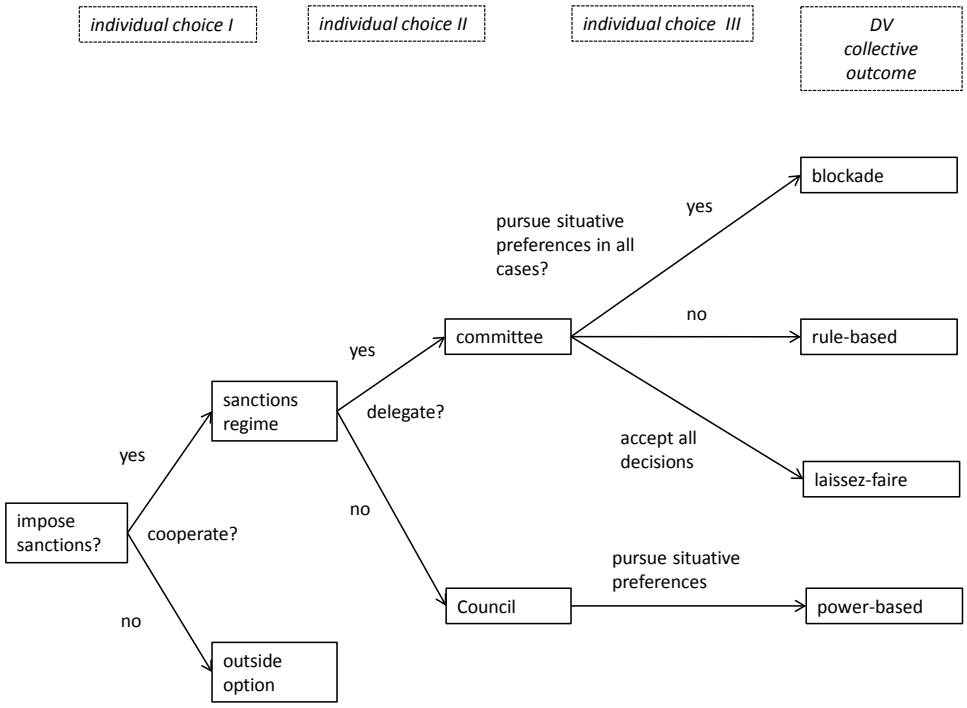
UN Charter also outlines specific decision rules on substantive and procedural decisions including the veto power for the permanent members (UN Charter art. 27). Due to its right to adopt legally-binding international law, impose sanctions, send peacekeepers to conflict zones, or authorize the use of force, the Council disposes of far-reaching resources to act, which potentially affects its decisions' addressees.

The Security Council also matches the baseline model of power-based decision-making in uniform decision processes, which can be compared to the logic of committee governance. In case the members of the Security Council decide to adopt decisions without recourse to a committee, the Security Council follows the logic of a uniform decision process. The UN Charter provides no significant limits to Council action (Peters 2012: 765–771) so this decision mode will provide very little constraints. This is especially true since the Security Council is not subject to any form of judicial control and non-state agents, such as the UN Secretariat, do not play any significant role. In fact, UNSC member states retain virtually all meaningful decisions to themselves. In this case, I would expect to observe Council decisions in the form of package deals following the interests of powerful members.

The UN Security Council equally conforms to the causal model of committee governance. The Security Council serves as a meaningful case for the causal mechanism according to which the transfer of decision competencies to a committee fundamentally alters the decision situation and therefore affects the content of decisions taken. One typically finds the situation of committee governance within the Security Council's sanctions regimes. The Security Council frequently delegates streams of small-scale implementation decisions to its sanctions committees with identical membership. These decisions are submitted separately and independently of each other and are mostly of a small scope, such as listing and delisting of individuals and entities subject to assets freeze and travel ban. Thereby, the decision functions of rulemaking and rule-application are not necessarily separated between the Council and its committee. In some instances, the committee serves a rulemaking function alongside the Council. As a consequence, I expect to observe the effects of committee governance, if the Security Council within in its sanctions regimes delegates streams of single-case decisions of limited scope to its sanctions committees.

How can we now locate the issue of committee governance within the overall decision situation of Security Council members? Figure 1 provides a decision tree and outlines the individual choices of permanent Council members that yield collective outcomes when the Council is confronted with a crisis situation and decides about whether or not to impose a sanctions regime.

Figure 1: Decision Tree Security Council Sanctions Regimes



Note: Author's illustration.

When permanent Council members decide about imposing sanctions in a particular crisis, they can either cooperate and impose a sanctions regime or they can not cooperate and veto the establishment of a sanctions regime (Choice I). In the former case, the Council institutes a sanctions regime if all permanent Council members prefer cooperation over non-cooperation. In this situation, a skeptical permanent member will have to weigh the costs and benefits of cooperation vis-à-vis the costs and benefits of obstruction. On the one hand, permanent Council members may have an interest in how to address a particular crisis situation. These interests may derive from various sources including long standing political alliances, particular economic interests, overall geostrategic interests or principled objection to outside intervention.

On the other hand, while the veto privilege of the five permanent members may seriously impede collective action of the Council, the permanent members may often opt for some Council action over obstruction. Skeptical permanent members can employ the Council to control far-reaching initiatives of proactive members (Contessi 2010). Proactive permanent members may use the Council as a tool for information transmission (Thompson 2006a, 2006b, 2009) or to increase the legitimacy of their actions (Voeten 2005; Hurd 2007). As a result, in many cases, the permanent members may have a diffuse shared interest in agreement and avoiding the use of the veto privilege (Krisch 2008: 141–142). The costs and benefits of the particular choice depends on the relative position towards the status quo and the availability of credible outside options (Voeten 2001). A skeptical permanent member, which can issue a credible veto threat, can extract substantial concessions of proactive members provided that the proactive members cannot fall back on a credible outside option, for instance, a unilateral military intervention. If a skeptical permanent member can credibly draw on an outside option as alternative to imposing a sanctions regime, it will likely veto the imposition of the sanctions regime. The extent of these costs and benefits in a particular case is then up to empirical investigation and may vary from case to case.

In a second step, if permanent Council members have collectively decided to create a sanctions regime, they can delegate implementation decisions to a sanctions committee or they can pursue all aspects of the sanctions regime within the Council as unitary decision process (Choice II). In the former case, actors may profit from creating a committee, for instance to take implementation decisions as necessary over a longer period of time and thus reduce the immediate workload of the Council. In the latter case, retaining the important decisions in a unitary Council decision process allows Council members to instantly pursue their situative preferences and will expectedly yield a collective outcome following the logic of package deals. For instance, actors can opt for a unitary Council decision process if they are specifically interested in a package deal, are under time constraints or wish to raise the public profile of their decisions. The content of these package deals is likely to be determined by the interest constellation among Council members, in particular among the permanent members.

In a third step, if the permanent Council members prefer to delegate implementation decisions such as listing and delisting of individuals subject to targeted sanctions to a committee, the individual choices of committee members on single-case implementation decisions in the context of the specific sanctions regime determine the collective outcome. These can potentially yield three collective outcomes (Choice III) provided that decisions are small and separate.

As a first scenario, if actors decide to pursue their situative preferences in all implementation decisions, the collective outcome likely is blockade. A situation of committee blockade is also expected to occur if at least one committee member pursues a dominant strategy of blockade under consensus. This route provides an alternative to a Council veto in a uniform decision process and can be beneficial for a skeptical permanent member because it can similarly prevent meaningful decisions while committee deliberations are less visible to the outside. However, non-permanent members can equally choose for a decision blockade but they could be outvoted in the Council and by virtue have a finite 'non-permanent' Council tenure. In a situation, where one committee member has a dominant interest in blockade, rules will be epiphenomenal because rules will likely point to solutions which are situated outside the win-set of the skeptical permanent or non-permanent member.

As a second scenario, if actors decide to not pursue their situative preferences in all implementation decisions, the collective outcome likely is rule-based decision-making. Should all committee members have a more or less pronounced common interest in the functionality of the sanctions regime but differ in the preferred solution, they will find themselves in a mixed-motive situation on single case decisions. If decisions are taken at different points in time and thus preclude adding decisions into larger packages, actors gain an interest in accepting some unfavorable implementation decisions unless they are willing to risk the operability of the committee. Formal rules and rules derived from precedents then provide suitable candidates for focal points that point to coordinated solutions. Hence, the committee is expected to operate according to a logic of rule-based decision-making if all committee members prefer a coordinated solution over blockade.

As a third scenario, if actors simply accept all implementation decisions because committee members have a negligible self-interest in those single-case decisions, the

collective outcome likely is laissez-faire decision-making. Hence, the committee members do not have any impetus to challenge any of the decision requests. However, a certain conflict of interest would be necessary to give rise to the coordination situations and the risk of blockade, which ultimately creates the demand for focal points and the incentives for rule-based decisions.

In conclusion, the UN Security Council conforms to the causal model of committee governance, if it delegates decision competencies to its sanctions committees. I expect to observe the effects of committee governance, if the Security Council delegates implementation decisions of limited scope to its sanctions committees, while I expect power-based decision-making in a uniform Council decision situation. Accordingly, the aggregated preferences of Council members point to four distinct collective outcomes. Rule-based decision-making is only one potential outcome and will expectedly occur, when Council members delegate to a committee and have a certain interest in the implementation decisions so that they eschew a laissez-faire mode or a decision blockade. Hence, the causal mechanism of committee governance only applies, if a permanent member does not pursue a dominant strategy of blockade within the committee. In this case, rules will point to coordinated solutions that are outside the actor's win-set.

2.6 Chapter summary

In this chapter, I developed a causal model of committee governance and argued that decision-making within UNSC sanctions regimes is best explained by looking at the decision situation provided by a specific form of functionally differentiation as opposed to a uniform Council decision process. The postulated causal mechanism suggests that separating a formerly uniform decision-making processes into a stage of rulemaking and a subsequent stage of applying these rules to single-case decisions is causally relevant to explain actor's behavioral patterns and the content of decisions taken within both stages.

The decision situation of a group of actors in the rulemaking stage systematically yields incentives for adopting consistent and generally-applicable rules to guide the following implementation decisions. A group of actors concentrating on adopting

rules for processing a number of future single-case decisions in a separate decision stage is confronted with constraints that favor the adoption of consistent rules. On the one hand, actors will operate under a 'veil of uncertainty' when they have to adopt decision criteria without knowing their preferences on all future cases to which these rules will apply. For individual actors, it is reasonable to strive for rules that promise to produce acceptable implementation decisions. On the other hand, even if actors know future cases well, they will be subject to consistency constraints. When actors no longer decide about single cases but about general rules, they have to present a bargaining position that aggregates several case specific preferences into one consistent bargaining position and sort out extreme cases. Hence, even rational actors gain an interest in choosing a bargaining position that produces an acceptable outcome across a range of single cases.

The decision situation in the committee stage provides strong incentives for rule-based decision-making. The situation is substantially different if actors have to adopt many separate implementation decisions in light of provided criteria. Actors tasked with rule-implementation are deprived of their ability to compensate losses through accumulating single issues to packages. In this case, actors find themselves in a mixed-motive coordination situation that entails the serious risk of a decision blockade should every actor pursue its situation-specific interests to the effect that some actors need to compromise. Instead, to realize the goal of cooperation, committee members require focal points to signify which solutions are acceptable and which not. Externally produce substantive and procedural criteria are suitable and easily available. Alternatively, actors could use similar cases as precedents. The process will be self-sustaining if actors operate under a well-established decision practice because they will expect that rule violation will be reciprocally sanctioned. As a consequence, because alternatives to rule-based decision-making are unattractive, the committee will essentially operate in a rule-based decision-making mode.

The analysis of rule-based decision-making is contrasted to a uniform decision process that is likely to yield power-based decisions. In this mode, a group of actors is relatively unconstrained provided that they can agree on a solution. The group of actors will likely accumulate single issues into a comprehensive package. Such

negotiations would be subject to the logic of bargaining over grand political decisions. In bargaining, actors invest heavily into moving the bargaining outcome closer to the individually preferred solution, while diverging preferences are compensated through linkages. Hence, bargaining power becomes the major means of influence. Decisions emerging from such bargaining processes will entirely reflect the preference constellation among powerful actors.

The presented argument is entirely compatible with an institutionalist research agenda and incorporates organization theoretical concepts without leaving the fundamental assumptions of rationalist cooperation theory. It is rooted within institutionalism that highlights the mutual benefits of institutionalized cooperation for states (Abbott/Snidal 1998; Koremenos et al. 2001; Keohane 1984). It complements such theoretical thoughts with ideas from organization theory that emphasizes the structuration effects of decision-making in differentiated organizations (Koch 2009; Gehring 2009). This conceptual choice rests upon the consideration that a meaningful concept of decision-making within more complex organizations only achieves sufficient explanatory power, if it is also applicable under the demanding conditions of egoistic utility maximizers. The argument is also compatible with alternative explanations attributing the increasing regulation in UNSC sanctions regimes primarily to external pressure. Such arguments suggest that the critique over the infringement of fundamental rights of targeted individuals in one particularly important UNSC sanctions regime (Genser/Barth 2014; Bothe 2008; Tzanakopoulos 2010; Biersteker/Eckert 2006, 2009; Heupel 2013; Kanetake 2008) caused the increasingly dense set of regulations. While these approaches made convincing contributions, the causal model places these arguments within the broader context of UNSC committee governance.

The argument outlined here is substantially different from arguments that explain decision-making and decisions of international organizations primarily by the autonomous action of bureaucracies or secretariats. In principal-agent approaches (Hawkins et al. 2006b; Nielson/Tierney 2003), but also in bureaucratic culture approaches (Barnett/Finnemore 2004), the deviation of the agent from the principals interests is inherently considered as a problematic aspect. A different strand of modern regulatory theory highlights that in some instances principals gain from an

independent agent if it binds it to the principal's long-term interest (Majone 2001b). However, these approaches fail to account for effect created by delegating decision competencies to the same group of actors. The argument outlined here is also substantially different from arguments that explain the decisions of international organizations primarily by focusing on the interest constellation of powerful members. By contrast, while taking the significance of rationally pursued preferences seriously, I suggest that such rational utility maximizing actors operating in structures characterized by functional differentiation cannot pursue their situation-specific interest in every case without compromising the operability of the cooperation project. Therefore, in the present argument I combine rationally pursued preferences with the idea that such preferences can only be pursued within the institutional framework in which actors operate.

The added value of this theoretical approach is that it takes the structuration effects of functionally differentiated organizations into the view. The concept of committee governance provides an empirically applicable framework, which directs the attention to the specific opportunity structures that emerge from separating rulemaking and rule-application in which rational members operate. The causal mechanism illustrates that the transfer of decision competencies to a subsidiary committee will alter the decision situation of rational actors, even if the same group of actors is present in all decision stages. Because the organization allocates different opportunity structures to actors in both stages, actors will choose behavioral patterns, they would not have chosen without such a structuration. Because it rests upon the creation of specific opportunity structures, this concept explicitly captures powerful agents such as secretariats or even courts, which might be instituted with particular functions and be comparatively independent and therefore can affect organizational decisions. More than that, the concept offers an explanatory framework for the borderline case of a relatively simple structured, intergovernmental organization that is dominated by few great powers, where a group of actors transfers decision competencies to a committee with the same membership. While the extent of structuration may empirically differ, every organization exhibits some form of institutional incentives that members cannot eschew.

3 Methodological Approach: Theory-testing Process Tracing, Case Selection and Observable Implications

In this chapter I clarify why I expect the method of *theory-testing process tracing* to produce valid evidence for the postulated causal mechanism of committee governance. Above all, the decisive factor for choosing this method is that research goal is to empirically analyze if the hypothesized causal mechanism is present in the studied cases and if so, whether it actually empirically worked as theoretically postulated. At the same time, the chapter elucidates why the Security Council is a useful object of investigation, why its sanctions regimes provide a suitable unit of analysis and why the particular cases promise to produce a particularly meaningful test. Equally, the comparative perspective of intentionally selected cases seeks to admit deriving at least some modest generalizations about the presence and workings of the causal mechanism across other potential cases (for such research approach, see Beach/Pedersen 2013).

The chapter will exclusively focus on those aspects of process tracing that are essential for the choice of methodology, case selection and overall research design. The chapter will not engage in a discussion of the development of process tracing as a research methodology (see George/Bennett 2005, Chapter I; Bennett/Checkel 2015), its ontological and epistemological foundations (see George/Bennett 2005, Chapter VII; Beach/Pedersen 2013, Chapters V, VI, Mahoney/Goertz 2006; King et al. 1994), or particular variants of process tracing or differences to other case study methodologies (George/Bennett 2005).

The present analysis shares the positivist ontology and objectivist epistemology underlying the mainstream process tracing approach in social sciences (George/Bennett 2005: 8–9; Beach/Pedersen 2013: 11–13; Bennett/Checkel 2015; Brady/Collier 2010; Collier 2011). While other different ontological and epistemological foundations are equally legitimate and no approach is per se superior to another – a discussion that goes way beyond the purpose of this study - the present analysis should be evaluated within these foundations. It has its roots in the endeavor to explicate generalizable theories and uncover the "causal forces" that link a particular cause to a particular real-world phenomenon. The causes are understood as

systematic factors that gain relevance beyond a particular studied case as generalizable cause-effect relationships. The ultimate goal is to go beyond mere descriptive inference and to achieve causal inference (Mahoney/Goertz 2006: 228; King et al. 1994: 7-9, Chapter II, III; Brady/Collier 2010) by developing logically consistent models with associated observable implications that are tested against empirical observations (George/Bennett 2005: 6).

The chapter proceeds as follows: In the next section, I explicate the particular demands for the choice of research methodology that logically follows from the theoretical conception of this analysis to produce a convincing empirical foundation of theoretical postulates. I seek to demonstrate that the method of theory-testing process tracing fulfills these demands and provides a suitable approach for the empirical analysis. In the second section, I argue that the Security Council is a particularly demanding case for the theory of functional differentiation, elucidate the logic of case selection in process tracing and the particular strategy used. In the third section, the major variables will be operationalized through developing an analytical scheme that transfers theoretical expectations into empirically observable implications. In the fourth section, I introduce the data sources. Fifth, the chapter is concluded with a short summary.

3.1 Process tracing as research methodology

In its essence, the central objective of the present analysis is to reconstruct whether the theorized causal mechanism is present within the empirical cases studied and if so, analyzing if it worked as the theory predicted. In this case, the objective is to study *whether and how the delegation of decision competencies to sanctions committees affects decision-making and the content of decisions taken*. Because the choice of method is not and should not be an end in itself and rather be driven by particular research problem, epistemic interest and theory, the choice of methodology has to be justified in light of these considerations (King et al. 1994: 9). The following two sections first introduce theory testing process tracing as a methodology and then argue why it is suitable for the present research problem.

3.1.1 The essence of process tracing

To fulfill the prerequisites posed by the theoretical framework on the choice of method, the present analysis will conduct theory-testing process tracing as laid out by Beach/Pedersen (2013). Process tracing is a small-n, case-study method that seeks to provide descriptive as well as causal inferences from evidence, usually along a temporal sequence of events (Collier 2011: 824; Mahoney/Goertz 2006; Gerring 2009). George/Bennett provide a definition: "In process-tracing, the researcher examines histories, archival documents, interview transcripts, and other sources to see whether the causal process a theory hypothesizes or implies in a case is in fact evident in the sequence and values of the intervening variables in that case" (George/Bennett 2005: 6).

Process tracing is best explained by the analogy of a criminal investigation. The investigator of a crime cannot make a convincing case based on statistical probabilities that a particular individual is likely to be the perpetrator. On the contrary, the investigator has to empirically demonstrate a complete evidentiary chain linking the suspect's motive, the means used and the potential opportunity to commit the crime to the deed through providing forensic evidence for each part of the chain (George/Bennett 2005: 21; Bennett 2010: 208; Beach/Pedersen 2013: 75–76). Thus, process tracing investigates the evidentiary basis that either confirms or disconfirms the hypothesized causal chain and its rival explanations within a case (Bennett 2010: 208).

The essence of process tracing is to study causal mechanisms that link the *explanans* to the *explanandum*. For instance, in the study of democratic peace, where other studies have found a strong correlation between democracy and peace, process tracing would rather be interested in studying if democracy had indeed caused peace and in particular, how democracy exactly causes peace (Beach/Pedersen 2013: 1). Thus, each part of a hypothesized causal mechanism is best understood in the analogy of a "toothed wheel", which conveys "causal energy" to the next toothed wheel ultimately generating the observed effect. Each part of the hypothesized causal mechanism is itself an insufficient but necessary part of overall mechanism. In fact, all parts of the causal mechanism are essential (i.e. necessary) for the mechanism to work on a whole. If the empirical investigation reveals disconfirming evidence on at

least one part of the mechanism, the researcher can reject the theoretical claim, however, if it reveals confirming evidence, the researcher can infer that the mechanism indeed exists (Beach/Pedersen 2013: 29–44). Hence, process tracing ultimately seeks to open up the "box of causality" (Gerring 2007a: 45; Beach/Pedersen 2013: 1), which is black-boxed in "effects-of-causes" approaches, to uncover causal factors that are intermediate between structural independent variables and the observed effect (Mahoney/Goertz 2006: 229–234).

Process tracing as a methodology adopts both a *mechanismic* and *deterministic* ontology of causation (Beach/Pedersen 2013: 25–28). Concerning the former, its mechanismic ontology relates to the debate about whether causality can be seen in terms of covariance between two variables ('regular association') or if causality better resembles a close connection between a particular cause and observed effect (mechanismic). In process tracing, causal forces are not black-boxed in favor of looking at mere correlations between independent (X) and dependent variables (Y) as in approaches assuming 'regular association', but the interest lies rather in causal mechanisms whereby X produces Y and the transmission through a set of sequential causal forces from X to Y. Concerning the latter, process tracing is inherently associated with a deterministic as opposed to probabilistic ontology of the nature of causal relations. Probabilistic causality assumes that the world has random properties, expressed in statistical error terms, resulting from randomness or complexity of the world. Probabilistic causality usually assumes relationships taking the form of "Y tends to increase if X increases". This approach is most meaningful when the goal is to investigate mean causal effects of systematic parts across a usually large sample of cases. In contrast, qualitative scholarship perceives causality in terms of set-theoretic relationships of sufficient and necessary conditions. Therefore, causal relationships take the form of deterministic laws: "Y occurs if X occurs" (Beach/Pedersen 2013: 25–28; Mahoney/Goertz 2006: 232–235). The mechanismic and deterministic ontology differentiate process tracing from large-n designs (regularity, probabilistic) and other case-based methods such as congruence testing (regularity, deterministic) (Beach/Pedersen 2013: 27–28).

Process tracing seeks to establish causal inference through empirically applying four tests, each having different conclusive power and providing evidence for

confirming or disconfirming hypothesized and alternative explanations (Bennett 2010: 209–211; Collier 2011: 825–828; van Evera 1997: 30–34). Because in the social sciences, 'doubly decisive tests' that both confirms the hypothesis and eliminates alternative explanations (i.e. a camera filming the perpetrator of a bank robbery proves suspect is guilty or innocent) are difficult to find, and 'straw-in-the-wind' tests do neither confirm nor disconfirm hypothesis or alternative explanations, scholars usually employ 'hoop tests' and 'smoking gun' evidence to establish causal inference. The former seeks to eliminate rival explanations while passing the test for the hypothesis is necessary to establish causal inference (e.g. was suspect at crime scene?). For the latter, passing is sufficient to confirm the hypothesis but does not automatically eliminate other explanations and takes the form of observing the suspect holding a smoking gun at the time of the homicide (Beach/Pedersen 2013: 102–105).

3.1.2 Theory-testing process tracing as methodology for the study of committee governance

The research methodology of process tracing fulfils the preconditions required for the empirical analysis of committee governance and its hypothesized effects. The research problem requires looking into the 'box of causality' to study intermediate factors between the cause and observed effect, with the aim of updating the confidence in theorized mechanism. Thereby, the logic of process tracing involves tracing only theoretically assumed causal mechanisms in specific episodes (within-case analysis), not just a diachronic series of historical events, and study if expected case-specific implications are present in a case (Beach/Pedersen 2013: 1-2, 15).

First, process tracing enables to test postulated causal mechanisms (for other variants, see Beach/Pedersen 2013, Chapter II). Process tracing allows for drawing inferences about if the causal mechanism was present and, if yes, to evaluate whether it functioned as predicted. Thereby, it provides a method that is able to handle the testing of causal mechanisms and any of its causal parts. Simultaneously, because the causal mechanism is expressed deterministically, it builds upon on the same deterministic considerations of sufficiency and necessity as process tracing. The existence of the mechanism as well as the fact that it worked as expected can only be

true or false. It is a matter of existence in kind, not in degree (George/Bennett 2005: 25–27; van Evera 1997: 55–67; Bennett/Checkel 2015).

Second, theory-testing process tracing allows for acknowledging the time component inherent to the process character of postulated theoretical mechanisms. It allows for acknowledging the fact that causal processes take place over time as the term 'process' exemplifies. Causal mechanisms form the essence of process tracing as truly mechanismic endeavor: understanding the process whereby causal forces are conveyed by a causal mechanism to yield the outcome (Beach/Pedersen 2013: 36–40). Therefore, process tracing sheds light into the causal direction through its account for temporality. In contrast to quantitative "effects-of-causes" approaches, process tracing methods have the potential to provide inferential leverage on the causal direction linking independent and dependent variables and establish if there is a causal chain of connection between both, in other words that X actually caused Y (Bennett 2010: 208–209; Mahoney/Goertz 2006: 229–234). Simultaneously, process tracing case studies represent a test as to how the causal mechanism worked in each case, where each part of the causal mechanism is evaluated in a stepwise fashion (George/Bennett 2005: 25).

Third, theory-testing process tracing allows for analyzing data on macro- and micro-levels. The postulated theoretical mechanism provides for a conceptualization of structural phenomena and individual behavior. For instance, rules as expression of structuration of decision making situations is a structural phenomenon, while in comparison, acceptance of a decision proposal is observable behavior on the individual level. Process tracing as a method is open to investigating causal mechanisms both at the micro- and the macro-level as well as possible situational and aggregation mechanisms between the micro- and macro levels (Beach/Pedersen 2013: 40–43).

Fourth, theory-testing process tracing as a method provides for drawing at least some modest generalization of empirical results despite being a small-n method. The nature of the case-based process tracing method is to study in-depth a limited number of cases, so naturally it is usually less representative of the population than randomly selected large-n studies. While this allows to reap the benefits from a high internal validity, it comes with the tradeoff of low external validity, an characteristic shared

with experimental designs (Gerring 2009: 101–102, 2007: 38, 43). This naturally makes generalizations "more fragile" as in large-n statistical tests (Mahoney/Goertz 2006: 237–238). The analysis can only yield "contingent generalizations" (George/Bennett 2005: 30–32) based on explicating the scope conditions under which a hypothesis can be generalized (Bennett/Checkel 2015: 13–14). In fact, each process tracing case study for itself is restricted to make strong within-case inferences if postulated mechanism is present in relation to the studied case. A single process tracing case study does not allow for drawing causal inferences about the necessity or sufficiency of the mechanism in relation to the wider population (except when the mechanism is not found to be present). However, if scope conditions are empirically present and if combined with other cross-case methods testing for the necessity of the postulated mechanism on a wider range of carefully selected cases, modest generalizations can be drawn (Beach/Pedersen 2013: 68–94; George/Bennett 2005: 30–32).

Fifth, theory-testing process tracing allows for empirically accounting for valid alternative explanations. In case there are existing rival explanations that can be transformed into predictions about causal processes in a given case and at the same time there is access to evidence required for tracing such rival explanations, competing explanations can be eliminated (George/Bennett 2005: 29). Practically, this can be achieved through a combination of hoop tests and smoking gun tests that fulfil the analytical goal of supporting one explanation and simultaneously eliminating rival explanations (Bennett 2010: 211; Collier 2011: 827). Since the content of the research project deals with decision-making in international security organizations, where usually many powerful actors, including the great powers, are present, the literature provides an alternative explanation that has a high a priori probability to be true. While this remains the object of empirical investigation, process tracing is open for accounting for such possibly powerful rival explanations.

Sixth, theory-testing process tracing allows for controlling for the possible interdependence of selected cases. Resulting from the choice of research object, the population of cases exhibits a modest potential that learning or diffusion processes between cases, but also issue linkages or package deals could account for the observed outcome across cases. A frequentist reasoning requires assuming the

independence of cases, which would otherwise significantly decrease the degrees of freedom. In other words, the observed phenomenon might not be caused by the hypothesized phenomenon, but the outcome is dependent on developments in another case. In fact, while process tracing cannot per se eliminate the effect that a case, which is dependent on another case, will not increase our confidence in the theorized mechanism, the method allows for controlling for such effects. Process tracing can shed light on linkages between cases and allows the researcher to evaluate, how much of the variance is explained by a case's dependence on an earlier case (George/Bennett 2005: 33–34).

In sum, the method fulfils the necessary prerequisites for drawing valid inferences from the empirical analysis. The methodology of choice is theory-testing, accounts for the process character of causal mechanisms, incorporate data on macro- and micro levels, allows for a modest generalization, grasps potential powerful alternative explanations and is able to deal with potentially interdependent cases.

3.2 Case selection

In a social science analysis seeking to re-trace a theoretical causal mechanism with in-depth case study research, cases have to be selected intentionally and carefully. In quantitative oriented research designs, cases would be selected by randomization. The goal is to select cases that are both representative of the larger population and at the same time exhibit variation across the theoretically interesting variables to attain 'causal leverage'. A high number of draws is meant to ensure that the cases in the sample are representative of the population across different variables. However, randomized selection of cases in small-n case studies is not advisable. First, for only a few number of studied cases, random selection will produce a sample that is highly unrepresentative of the given population (Seawright/Gerring 2008: 295; Gerring 2007: 86–88). Second, because small-n research often asks different types of research questions, researchers will often intentionally select those cases that are unrepresentative of the population, exactly because these cases would provide particularly strong inferences (George/Bennett 2005: 30–32). One way or another, case selection strategies in small-n research should be based on the central purpose of

the analysis and thus requires careful, theory-driven selection of nonrandom cases (van Evera 1997: 78–88; Levy 2008: 8–9). In that sense, selection bias is unproblematic as long as its consequences are made transparent and generalizations are made contingent (George/Bennett 2005: 31–32).

Generally, before selecting cases one first has to establish what is understood as a case. The present analysis applies Gerring's case study concept (2004). He defines a case study as an "intensive study of a single unit for the purpose of understanding a larger class of (similar) units. A unit connotes a spatially bounded phenomenon—e.g., a nation-state, revolution, political party, election, or person observed at a single point in time or over some delimited period of time. (…) A 'population' is comprised of a 'sample' (studied cases), as well as unstudied cases. A sample is comprised of several 'units,' and each unit is observed at discrete points in time, comprising 'cases.' A case is comprised of several relevant dimensions ('variables'), each of which is built upon an 'observation' or observations" (Gerring 2004: 342). In conformity with the foundations of process tracing, which are centrally focused on within-case inferences on postulated causal mechanisms, the present analysis takes 'sequences' into the view. Therefore, I regard a temporally delimited sequence within a unit as a "case" (Gerring 2004: 342; Collier 2011).

3.2.1 Case selection in theory-testing process tracing

A fundamental problem of case selection arises out of the question, whether or not the researcher can draw determinate inferences from only a few studied cases. From a frequentist perspective, this critique of the case study method rests on the "negative degrees of freedom" arising from having few cases but many variables leading to an indeterminate research design (George/Bennett 2005: 28–30; King et al. 1994: 208–230). However, simply increasing the number of cases, will not always a lead to more inferential value because the cases may not be comparable anymore (Brady/Collier 2010: 23–24). In fact, qualitative scholars maintain that the ultimate goal of drawing inferences rests on its ability to reject alternative explanations even in a few number of cases, which the case study method allows for (George/Bennett 2005: 28–30).

As a result, the case selection strategy should be centrally driven by the research objective at hand. Cases should not be merely selected, because they provide abundant data, are particularly interesting or seem historically relevant to the researcher. On the contrary, the cases have to be selected on considerations about how much control and variance the research objective requires to draw valid inferences. In this case, even a single-case design can be useful, if it supports the purpose of the research problem (George/Bennett 2005: 83–84). At the same time, the researcher has to explicate the scope conditions under which the theoretical mechanisms is postulated to work (Gerring 2009: 83). Theory-testing process tracing is particularly suitable as a strategy for performing empirical tests in cases where there is a well-developed theory (such as in the case of functional differentiation within international organizations), but not yet empirical support, at least for difficult cases with rival explanations.

Theory-testing process tracing poses specific prerequisites for the selection of cases. The logic of theory-testing process tracing prompts the researcher to select cases according to their values on X and Y (Beach/Pedersen 2013: 146–154). Thus, the case study method requires at least some a prior case knowledge about the distribution of X and Y to select cases. Its ultimate goal is to go beyond mere covariance between two variables and thus to empirically test the existence of postulated causal mechanisms (Lieberman 2005: 436; Beach/Pedersen 2013: 146). Fundamentally, for drawing inferences about the workings of the causal mechanism, testing if the postulated mechanism is present and if it also worked as expected, the researcher has to select cases were X and Y are present. It would not make sense to select a case in which one already knows that either X or Y is not present because the mechanism will not present in this case. To make inferences about the overall necessity of the mechanism to cause the phenomenon at stake, we have to rely on other cross-case comparisons (Beach/Pedersen 2013: 144–154).

3.2.2 The Security Council as object of investigation

The method of process tracing entails the Bayesian logic of ‘updating’ based on the usage of a priori knowledge (Beach/Pedersen 2013: 83–88; Bennett/Checkel 2015: 16–17; Brady/Collier 2010). According to this logic, the confidence in the validity of

the postulated mechanism is strengthened, when we find evidence that is least-likely to be found as a result of a small a priori probability of its leverage, i.e. the presence of a strong and plausible alternative explanation. According to Beach/Pedersen (2013) the "belief in the validity of a theory is most strongly confirmed when we engage in new scholarship and find evidence whose presence is highly unlikely unless the hypothesized theory actually exists" (Beach/Pedersen 2013: 84).

Therefore, because the research objective of this study is to test the applicability of a theory of committee governance in international organizations, a particularly difficult case, where we would least expect effects to be present and with strong and plausible alternative explanations, will strengthen our confidence in the postulated mechanism most. This approach resembles a strategy often applied in theory-testing small-n research designs such as Nielson/Tierney's study of World Bank agency (2003: 252–253), Barnett/Finnemore's analysis of IO autonomy (2004: 10, 15) or Eilstrup-Sangiovanni analysis of transgovernmentalism in high politics (2009: 196). The present analysis builds on earlier studies that have analyzed a similar theoretical mechanism, albeit in different policy fields and institutional contexts. From a theoretical perspective, these contexts more likely to exhibit such effects, for instance because they operate in 'low politics' or show a high degree of institutionalization. As such, the research adds to existing analysis of institutions such as the European Union (Gehring/Kerler 2008; Ruffing 2011), the World Bank (Kerler 2010; Gehring/Kerler 2007), the CITES regime (Gehring/Ruffing 2008) or the climate change regime (Gehring/Plocher 2009; Plocher 2011). Strikingly, in these studies, the effects of functional differentiation mostly result from a strong institutional agent such as a powerful secretariat or scientific experts.

The UNSC constitutes such a particularly demanding case for a theory of committee governance and itself represents a crucial case (Gerring 2007: 115–120; Eckstein 1975). First, in contrast to many international organizations, the structure of the UNSC is almost purely intergovernmental and other institutional agents such as an independent secretariat are either absent or weak. Second, the UNSC is dominated by few powerful great powers that serve as permanent members and often have conflicting interests (Bosco 2009; O'Neill 1996). Third, the UNSC main task of maintaining international peace and security is situated in the field of 'high politics'

that is usually regarded as least prone to institutionalized forms of cooperation (Rittberger et al. 2012: 141–142). Fourth, the UNSC represents selecting a case, for which the literature presents rather statist, obvious and widely-shared alternative explanations (for this reasoning see Barnett/Finnemore 2004: 14–15).

As a result of these considerations, in the UNSC, rule-based decision-making can only result from organizational rules regulating collective decision processes that shape or constrain actors' opportunity structures because other influences usually associated with such effects (e.g. agents or bureaucracies) are absent. Such logic of case selection is common in International Relations. For instance, in their study on the role of precedents, Stone Sweet/Sandholtz have considered the Security Council a hard test case for which evidence that points towards UNSC members referring to precedent provided strong support for their theoretical proposition (2004). Accordingly, if one finds that UNSC members "create and consider precedent" although these members had strong incentives to deny the impact of precedent because they favor maximum discretion and seek to maximize their sovereignty, one has strong support for the theoretical argument (Stone Sweet/Sandholtz 2004: 260).

As a consequence, choosing the Security Council as an object of investigation has meaningful consequences for the leverage of the postulated causal mechanism (see also Thompson 2009: 12–13). Because one can be legitimately skeptical to find the mechanism at work, finding it will significantly increase the confidence into the mechanism according to the Bayesian logic of updating inherent to process tracing (Beach/Pedersen 2013: 96–98). As a result, if we can observe the structuration effects in organizational decision-making in a purely intergovernmental organization, we would also expect it to be present in other more institutionalized contexts.

3.2.3 Security Council sanctions regimes as a population

The present analysis will focus solely on Security Council sanctions regimes as unit of analysis, because sanctions regimes are least institutionally structured and receive substantial and continuous decision functions. Evaluating the effects of functional differentiation within the UNSC offers a range of selectable cases. Under Article 29 of the UN Charter and rule 28 of the UNSC's provisional rules of procedure

respectively, the UNSC has the authority to transfer decision competencies to one or more subsidiary bodies, whenever deemed necessary. Over time, the UNSC has created a plethora of different subsidiary bodies ranging from peacekeeping operations, standing committees (e.g. Committee on the Admission of New Members) to courts (e.g. International Criminal Tribunal for the former Yugoslavia (ICTY)), depending on the function to be fulfilled (Paulus 2012: 995–1027; Sievers/Daws 2014: 467–556). However, not all of these subsidiary bodies are suitable for empirical analysis as outlined above. The universe of UNSC subsidiary organs, on the basis of which the consequences of functional differentiation of a comprehensive decision process will be analyzed, is reduced by the following considerations.

First, to achieve meaningful results on the functioning of the UNSC, the cases should be connected to the Council's central decision-making function: authorizing legally-binding measures to counter threats to international peace and security. Under the so-called 'Chapter VII mandates' the UNSC can adopt 'measures short of armed force' (i.e. sanctions) and even authorize the use of force to maintain international peace and security. This consideration excludes procedurally-oriented subsidiary organs such as the Committee on Council Meetings Away from Headquarters or the Committee on the Admission of New Members.

Second, to ensure comparability of more or less similar cases, international criminal tribunals (e.g. ICTY), cases of international territorial administration (e.g. United Nations Mission in Kosovo), special political missions and peacekeeping operations or other bodies (e.g. UN Compensation Commission) will be excluded although they have complex organizational structures (for a discussion of the differences see Sievers/Daws 2014: 460–571; Paulus 2012). However, in these cases, the organizational structure is composed of more or less powerful agents and not purely intergovernmental. In the case of an international criminal tribunal, which as a court is supposed to be independent and work according to its own rules, finding evidence for rule-based decision-making would not be surprising.

Third, in the selected cases the subsidiary bodies must have actual decision competencies, which are not merely oversight, monitoring or reporting functions. In these cases, the subsidiary organ does not have a primary decision function. Since this analysis deals with decision-making, we would not expect any effect of decisional

structuration, because no meaningful decisions are taken. Therefore, subsidiary bodies such as fact-finding or Council visiting missions were excluded. This leaves sanctions regimes as population from which units can be selected into a sample of studied units.

3.2.4 The criteria for the selection of suitable 'units'

Since it is infeasible and unnecessary to study the total population of the 30 historical and current UNSC sanctions regimes (see Annex 1), cases have to be intentionally selected based on their potential to contribute to causal inference about the postulated theoretical mechanism. Simultaneously, the analysis seeks to maximize the variance of selected cases to draw modest generalizations and ensure modest external validity of empirical results. Selected units have to be substantially different in their relevance for the research objective because studying finding the same mechanism in a very similar case will not significantly increase our confidence in the mechanism. Hence, the following case selection strategy will be applied.

First, the two Cold-War cases are discarded on the basis of their sui generis nature against the background of the East-West conflict. The sanctions regimes against Southern Rhodesia (resolution 232 (1966)) and South Africa (resolution 418 (1977)) took place in the political divisions of the Cold War and are not comparable to the post-Cold War cases (see for instance Malone 2008: 120–121; Cortright/Lopez 2000; Cortright et al. 2002; Carisch/Rickard-Martin 2011; Weschler 2009-2010).

Second, the subsidiary body must actually make use of its decision competence, because the present analysis is about decision-making. In cases, where Council members do not intend to take decisions, effects of the structuration of decision-making simply cannot be observed since there is nothing to decide and one would also not expect to observe decision-making issues. Table 1 shows the number of committee meetings for each historical and current UNSC sanctions committee. The number of meetings serves as a proxy for committee activity. Two sanctions committees, *Lebanon* and *Iraq* (here: Iraq sanctions committee pursuant resolution 1518 (2003)), did not meet at all since their establishment. Four other committees have either existed for two years or less or have rarely met: *Haiti*, *Eritrea/Ethiopia*

and Rwanda and *Guinea-Bissau* committees, respectively. The latest UNSC sanctions committees on *Central African Republic*, *Yemen* and *South Sudan* do not have sufficient decision practice for proper analysis yet.

Table 1: Meetings of Security Council Sanctions Committees

Sanctions Committee	Resolution	Number of Meetings													
		90	91	92	93	94	95	96	97	98	99	20	01	02	Ø
Iraq	661 (1990)	22	37	24	22	13	11	16	17	13	14	19	20	15	
Yugoslavia	724 (1991)		1	47	46	22	23	2							*35*
Libya I	748 (1992)			14	19	14	16	8	7	11	2	0	0	0	
Somalia	751 (1992)			4	3	2	1	1	2	1	2	1	1	7	
Haiti	841 (1993)				6	5									
Angola	864 (1993)				4	3	1	1	2	3	6	9	17	9	*5*
Rwanda	918 (1994)					1	3	1	1	2	1	0	0	0	
Liberia	985 (1995)						2	1	1	1	1		9	7	
Sierra L.	1132 (1997)								2	4	7	7	5	4	
FRY	1160 (1998)									7	11	2	0		*7*
Al-Qaida	1267 (1999)										2	2	13	21	
Eritrea/Eth	1298 (2000)											3	2		*3*

Sanctions Committee	Resolution	Number of Meetings													
		03	04	05	06	07	08	09	10	11	12	13	14	15*	Ø
Iraq	661 (1990)	4													*18*
Libya I	748 (1992)	0													*8*
Somalia	751 (1992)	10	12	12	7	7	7	7	7	7	10	5	6	3	*5*
Rwanda	918 (1994)	0	0	0	3	1	1								*1*
Liberia	985 (1995)	6	4	2	13	9	11	8	2	3	3	3	4	3	*5*
Sierra L.	1132 (1997)	8	3	0	1	1	1	0	0						*3*
Al-Qaida	1267 (1999)	40	39	43	41	31	36	27	33	17	17	16	13	10	*26*
Iraq	1518 (2003)	0	0	0	0	0	0	0	0	0	0	0	0	0	*0*
DRC	1533 (2004)		5	17	11	16	6	6	3	4	4	2	4	4	*7*
Côte d'Iv.	1572 (2004)		2	20	11	10	5	7	6	3	6	6	5	2	*8*
Sudan	1591 (2005)			16	6	12	8	11	8	5	7	5	5	3	*7*
Lebanon	1636 (2005)			0	0	0	0	0	0	0	0	0	0	0	*0*
DPRK **	1718 (2006)				0	15	0	15	4	7	5	9	6	3	*8*
Iran	1737 (2006)				0	23	5	0	1	4	4	8	6	2	*6*
Libya II	1970 (2011)									7	7	4	6	2	*6*
Taliban	1988 (2011)									3	3	5	5	4	*4*
Guinea-B.	2048 (2012)										2	0	1	0	*1*
CAR	2127 (2013)											0	9	4	*9*
Yemen	2140 (2014)												8	1	-
S. Sudan	2206 (2015)													5	-

Notes: Author's illustration based on Bailey/Daws (1998: 367) and updated using UNSC annual reports from 1989/90 to 2014/15, available at: http://www.un.org/en/sc/documents/reports/ [22 March 2016].
'FRY' denotes Federal Republic of Yugoslavia; 'Sierra L.' Sierra Leone; 'Eth.' Ethiopia; 'DRC' Democratic Republic of the Congo; 'Guinea-B.' Guinea-Bissau; 'CAR' Central African Republic; 'S.Sudan' South Sudan. Tables list committees only between creation and termination. Average excludes first and last year to compensate for different creation and termination dates. Greyed numbers mark termination year.

* Values only denote meetings between 01 January and 31 July 2015 due to reporting period of UNSC annual reports.

** UNSC annual reports for 2008 (A/63/2, pp.238-239) and 2009 (A/64/2, pp.91) do not list DPRK sanctions committee meetings. The DPRK sanctions committee annual report denotes one formal and 14 informal meeting for 2007 (S/2007/778, para. 3). In a Council statement (S/PV.6043), the Chair referred to one formal and 14 informal meetings for 2007 *and* 2008. Thus, it had not met in 2008.

Third, selected cases should cover sanctions regimes with different decision competencies such as listing and delisting of individuals, determination of dual-use goods or comprehensive sanctions, to control for specifics of a particular sanctions measure. Table 2 shows the different sanctions measures across sanctions regimes. To ensure comparability, at least in principle, all types of sanctions measures give rise to comparable decision situations, if the decision function requires many single-case decisions to be taken in light of general criteria. This applies to exemptions from comprehensive trade embargoes (Iraq, Yugoslavia), exemptions from flight embargoes (Iraq, Yugoslavia, Libya I, Haiti, Angola, Al-Qaida/Taliban, Libya II), listing and delisting decisions in targeted sanctions (Yugoslavia and all targeted sanctions regimes), or determination of commodity sanctions (e.g. non-proliferation regimes DPRK and Iran). All selectable cases include an arms embargo, albeit this does not always include a decision function.

Fourth, selected cases should be typical for their class of cases concerning the conflict type. While the majority of cases address armed conflicts including civil wars, non-proliferation and counter-terrorism are two different threats to the peace, the UNSC addresses by imposing sanctions (Security Council Report 2013: 3–5).

Fifth, cases should differ in terms of the degree of public scrutiny to control for alternative explanations based on external pressure caused by a public human rights discourse. This mainly applies to the significant attention gained by the Al-Qaida/Taliban sanctions regime concerning the infringement of fundamental rights of listed individuals and associated regional or domestic court cases (Kanetake 2008; Biersteker/Eckert 2006, 2009; Keller/Fischer 2009; Heupel 2013).

Sixth, the analysis should vary across time and include cases at the beginning of the ‘sanctions decade’ (Cortright/Lopez 2000) after Cold War as well as cases after the sanctions reform process from comprehensive to targeted sanctions (Interlaken, Bonn-Berlin, Stockholm processes, Biersteker et al. 2005) to rule out alternative explanations based on the political context of UNSC sanctions policy.

Table 2: Decision Functions of Sanctions Committees by Sanctions Measure

Case	Sanctions Measure					Initiating Resolution	Resolutions
	A: Comprehensive (Econ./Financial)	B: Arms Embargo	C: Transportation Sanctions	D: Targeted Sanctions	E: Commodity Sanctions		
Iraq	X	x	X		n/a	661 (1990)	A: 666 (1990), 1, 5; 687 (1991), 20; C: 670 (1990), 3
Yugoslavia*	X	x	X	X	n/a	713 (1992)	A: 787 (1992), 9; 820 (1993), 22, 27, 28; 942 (1994), 7, 13, 15; C: 757 (1992), 13; D: 942 (1994), 14
Somalia/ Eritrea		X		X	x (charcoal)	733 (1992)	B: 1356 (2001), 4; C: 1907 (2009), 18b
Libya I		x	X		x (oil service equip.)	748 (1992)	C: 748 (1992), 9e
Liberia***		X		X	x (diamonds, timber)	788 (1992)	B: 1343 (2001), 14d; 1521 (2003), 21c; 1683 (2006), 1-3; 1731 (2006), 1ab; D: 1343 (2001), 14ei; 1521(2003), 21d; 1532 (2004), 4a
Haiti	X	x	X	X	X (petroleum import)**	841 (1993)	A: 917 (1994), 7, 8; C: 917 (1994), 14e; E: 841 (1993), 10d; D: 917 (1994), 3
Angola (UNITA)		x	X	X	x (diamonds, petroleum imp., other)	864 (1993)	C: 1127 (1997), 11b; D: 1295 (2000), 24
Rwanda		x			X (explosives import)	918 (1994)	E: 1005 (1995), 1
Sierra Leone		x		X	X (diamonds, petrol. imp.)	1132 (1997)	D: 1132 (1997), 10f; 1171 (1998), . 6; E: 1132 (1997), 10e
Yugoslavia		x				1160 (1998)	
Al-Qaida/ Taliban		X	X	X	x (acetic anhydride)	1267 (1999) 1989 (2011)	B/C: 1333 (2000), 16; D: 1452 (2002), 1, 3; C: 1267 (1999), 6; D: 1333 (2000), 16; 1390 (2002), 5
Eritrea/ Ethiopia		X				1298 (2000)	B: 1298 (2000), 8e
DRC		X		X		1493 (2003)	B: 1596 (2005), 18d; D: 1596 (2005), 18a; 1649 (2005), 4; 1698 (2006), 14

Case	Sanctions Measure					Initiating Resolution	Resolutions
	A: Comprehensive (Econ./Financial)	B: Arms Embargo	C: Transportation Sanctions	D: Targeted Sanctions	E: Commodity Sanctions		
Iraq		x		X	x (cultural property)	1518 (2003)	D: 1483 (2003), 19
Cote d'Ivoire		X		X	x (diamonds)	1572 (2004)	B: 1572 (2004), 14c; D: 1572 (2004), 14a
Sudan II		X		X		1556 (2005)	B: 1591 (2005), 3a; D: 1591 (2005), 3a,ii
Lebanon				X		1636 (2006)	1636 (2005), Annex, 2i,ii
DPRK		x		X	X (nuclear, ballistic, luxury goods)	1718 (2006)	D: 1718 (2006), 12e; E: 1718 (2006), 8, 12d; 2094 (2013), 23
Iran		x		X	X (nuclear, ballistic)	1737 (2006)	D: 1737 (2006), 18df; E: 1737 (2006), 18e
Libya II		X	X	X	x (illicit crude oil exports)	1970 (2011)	B: 1970 (2011), 9; C: 1973 (2011), 17; D: 1970 (2011), 17;
Taliban		x		X		1988 (2011)	D: 1988 (2011), 30
Guinea-Bissau				X		2048 (2012)	D: 2048 (2012), 9b
CAR		X		X		2127 (2013)	B: 2196 (2015), 1c; D: 2196 (2015), 4,7
Yemen		x		X		2140 (2014)	D: 2140 (2014), 11,15 B: 2216 (2015), 14
South Sudan				X		2206 (2015)	D: 2206 (2015) 11,13

Notes: Author's illustration based on Carisch/Rickard-Martin (2011: 10), complemented with Farrall (2007) and information available in SanctionsApp: http://sanctionsapp.com/ [22 March 2016]. 'x' denotes no decision function for committee, 'X' denotes decision function for committee.
*Yugoslavia represents three sanctions regimes 713(1991), 757(1992), 820(1993).
** prior to comprehensive sanctions.
*** includes 788 (1992), 1343 (2001) and 1521 (2003) Liberia sanctions regimes.

These considerations allow for significantly reducing the number of cases. The first case is the Iraq sanctions regime in its entirely intergovernmental phase from 1990-1995. The UNSC imposed a comprehensive trade embargo on Iraq in reaction to its invasion of Kuwait and transferred considerable decision competencies, primarily on 'humanitarian exemptions', to its Iraq sanctions committee. This case allows for studying, whether or not the effects of committee governance also do occur in the

absence of the infringement of individual human rights inherent to targeted sanctions. Additionally, the analysis draws on a new data source of the publicly available *Paul Conlon Sanctions Papers*.

The second case is the Al-Qaida/Taliban sanctions regime. The sanctions committee was established in 1999 to apply pressure on the Taliban government of Afghanistan to extradite Usama bin Laden and was later strengthened into a global counter-terrorism targeted sanctions regime applying assets freeze, travel bans and arms embargoes on suspected affiliates of Al-Qaida and the Taliban. This regime is significant because it has the largest sanctions list and has generated major attention by the human rights community for the infringement of fundamental rights of listed individuals and its procedures are particularly well advanced (Biersteker/Eckert 2006: 25). The case is useful as it allows for the analysis of the effects of regulation on decision-making within a sanctions regime with high decision workload.

The third case is the Democratic Republic of the Congo sanctions regime. In 2003, the UNSC imposed an arms embargo to address the ongoing violent conflict in in Eastern Congo and established a sanctions committee to monitor the arms embargo in 2004. Since 2005, the UNSC applied assets freezes and travel bans on a range of individuals including spoilers to the peace process. This case represents a mid-active sanctions regime with about 40 list entries on its sanctions list. This case is useful as it adds a comparative perspective within the group of targeted sanctions regimes to preclude drawing premature conclusions from the Al-Qaida/Taliban sanctions regime that is under exceptional public scrutiny and the focus of the due process discourse.

The fourth case is the Sudan sanctions regime to address the civil war in Darfur. Since early 2003 the uprising of rebel militias in Darfur against the central government and its associated Janjaweed militias led to massive violations of international humanitarian law and human rights law. The UNSC adopted an arms embargo on Darfur in 2004 and imposed an assets freeze and travel ban in 2005. The Sudan sanctions regime allows for analyzing decision-making problems associated with the listing of individuals and entities and represents a negative case. This case illustrates the context conditions of the theoretical mechanism and eludes the logic of decision-making within functional differentiated sanctions regimes. As a result, even though the UNSC requested the newly created sanctions committee to determine

sanctions targets, the decision blockade in the Sudan sanctions committee could only be solved through adopting a listing decision comprising of four individuals in a UNSC resolution (1672 (2006)).

Finally, the fifth case is the Iran sanctions regime. Since 2006, the UNSC imposed sanctions in the context of Iran's nuclear weapons program. Subsequently, the sanctions regime was significantly strengthened with follow-up resolutions (1747 (2007), 1803 (2008), 1929 (2010)) and includes targeted sanctions against individuals and entities involved in the nuclear program as well as sanctions on nuclear proliferation and ballistic missile related goods. Accordingly, this case allows for a cross case comparison of sanctions on individuals and entities. In addition, the committee's decision function of determining potential dual-use items allows for a comparison of both types of decision-making in the context of the same sanctions regime. In this regard, the committee partially transferred its decision competencies on dual-use goods to two external transgovernmental networks as agents. Moreover, the Iran sanctions regime provides for comparing Council decision-making purely from 2006 to 2010 and committee decision-making afterwards.

The selected cases share important characteristics that allow for cross-case comparisons. The sanctions regimes exhibit similar decision problems because the sanctions regimes' sanctions measures require that the committee takes a number of single-case implementation decisions. Second, they are all similarly institutionally structured. Sanctions committees operate as purely intergovernmental implementation bodies and powerful agents with decision functions are absent (except for Ombudsperson of the Al-Qaida sanctions regime). Sanctions regimes will differ in structuration of organizational decision making both across cases, but also within cases (see below), which provides substantial variation required to draw causal inferences. Therefore, the selected units provide suitable cases to draw inferences on the effects of functionally differentiated decision-making.

3.2.5 The selection of case episodes

As a consequence of the research objective, evaluating if the postulated causal mechanism exists and works as hypothesized, specific case episodes within the

selected units have to be empirically investigated. I seek to explain, why Council and committee members within functionally differentiated sanctions regimes create rules and how these rules affect their decision-making behavior within the sanctions committees. A reasonable baseline assumption is that actors favor less regulation over more regulation, because they wish to retain maximum flexibility unless they can benefit from the adoption of rules (see Stone Sweet/Sandholtz 2004). To ensure that empirical results are valid and to account for the latent danger of drawing premature conclusions from case-specific particularities, a sufficient breadth of empirical observations, both across case and within-case, is essential.

From this consideration follows that each regulatory step within a specific decision function of a specific sanctions regime is a causally relevant case episode. A regulatory step is defined as a change in formal procedures (as observable in rules of procedure) and informal procedures (as observable by adoption of precedents). Every change in decision rules provides a case within a unit, because it is first sparked by a decision-making issue and possibly leads to an altered decision situation within the committee that is causally linked to committee decision-making. Thus, every regulatory step of a main committee decision function represents a sub-case.

This methodological approach has advantages for the explanatory power of the research project. Focusing on particular case episodes within units enables to broaden the empirical basis of the analysis through ‘within-case’ analysis (Gerring 2004). In this respect, variance can be observed not only spatially across units but also temporarily within units. Thereby, the logic of process tracing involves tracing only theoretically assumed causal mechanisms in specific episodes and studying whether or not the expected case-specific implications are present in a case. A case only becomes a case in light of its relevance for the causal mechanism (Beach/Pedersen 2013: 1-2, 15). In effect, the number of relevant observations is systematically increased through the analysis of parallel case episodes within each unit. Thus, taking case episodes as a ‘case’ increases the N (George/Bennett 2005: 151–179; King et al. 1994: 217–218).

3.3 Operationalization and observable implications

In contrast to frequentist "effects-of-causes" approaches interested in exploring covariance between variables, the process tracing approach poses the challenge of operationalization of causal mechanisms, which is not a self-evident task. In a first step, the postulated causal theories have to be converted into clear hypothesized mechanisms to describe how the phenomenon of interest is produced. The analysis of causal mechanisms prompts the researcher to explicate both, the causal conditions, which trigger the mechanism, and an explicit theoretical mechanism that produces the outcome. Chiefly, each of a causal mechanism's parts has to be described as particular activity of a particular entity. Entities are usually represented by nouns such as individuals, groups or states. Activities of these entities are usually represented by verbal expressions and describe the how the causal forces are transmitted as a causal mechanism. In effect, finding evidence confirming that the causal link exists provides strong evidence that the causal mechanism produces the outcome. Above all, each part of a postulated causal mechanism is itself insufficient but necessary part of the causal 'machine' that integrally produces the phenomenon of interest. Parts that do not fulfil this description are redundant (Beach/Pedersen 2013: 45–60).

Before collecting empirical data, theory-testing process tracing requires explicating case-specific expectations about observable implications for each part of the hypothesized causal mechanism, which we should be able to 'observe' if the mechanism is present (Bennett/Checkel 2015: 18; Beach/Pedersen 2013: 95; also 'causal process observations', Brady/Collier 2010, 'process tracing observations', Bennett 2006). Observable implications are specific pieces of empirical evidence that we should expect to see for each of the causal mechanism's parts. With this in mind, process tracing requires carefully formulating case-specific predictions of what kind of evidence the researcher should expect to 'observe' to evaluate the presence of the postulated mechanism. This includes making predictions about the particular entity performing a particular activity for each part of mechanism. To increase our confidence in the hypothesized mechanism, the analysis should also include expected observations on alternative explanations. For this reason process tracing involves designing predictions for what counts as evidence to observe if a causal mechanism's part exists, what evidence should we expect to observe for alternative explanations,

and what conclusions can be drawn in case the predicted evidence cannot be observed (Beach/Pedersen 2013: 95–105).

Owing to the research interest of this analysis to test whether or not the postulated causal mechanism is present and if it works as hypothesized under particular demanding circumstances, the analysis necessarily has to focus on particularly powerful actors within the decision-making process. For a hard test of the mechanism one has to show that the structuration of organizational decision processes even binds powerful actors to rules. These states would have an abundant range of resources to invalidate such rules. On the contrary, in case these actors agree to follow the rules and even accept single-case decisions of negative payoff, than one can infer that rules were decisive. If the rules are shown to bind even the most powerful actors of the international system, we can expect that this also holds true for less powerful actors. This strategy is often pursued in similar theory-testing research designs (see Garrett/Weingast 1993: 203; Barnett/Finnemore 2004: 10–11, 14-15; Thompson 2009: 12–13).

Within the UNSC, these powerful states are the permanent members because of their dominant position within the decision-making process. Crucially, the permanent members each enjoy a veto privilege. In addition, they constantly serve on the UNSC and therefore cannot be outvoted by delaying a decision. In contrast to the permanent members, the non-permanent members are almost negligible in voting power (see O'Neill 1996; Hosli et al. 2011). Within the sanctions committees, however, all members, including the non-permanent members have the same voting weight as they all enjoy blocking capability through the consensus procedure. Nevertheless, the permanent members are equipped with particularly large power resources, including positive and negative incentives for making weaker states deviant behavior prohibitively costly. However, whether or not actors actually make use of such tools is a matter of empirical investigation (see Vreeland/Dreher 2014; Cronin/Hurd 2008).

3.3.1 Operationalization of dependent variable

The dependent variable is the collective outcome of individual decision-making within a sanctions regime. While a uniform Council decision process entails many

aspects of a sanctions regime, each committee has a particular set of decision functions, usually centering on one central decision function such as listing and delisting of sanctions targets or granting exemptions from a trade embargo. Single committee decisions are the aggregate of micro-level individual choices by committee members either during committee meetings or using the no-objection procedure. In this case, because committee decisions are made by consensus, an objection by any committee member leads to a negative single-case collective decision. On the contrary, for a positive single-case collective decision, all committee members must acquiescence to a decision proposal. The collective outcome is the aggregate of case-specific individual choice on at least one, but usually a number of unrelated single-case decisions in a particular case episode.

The dependent variable can take four different values: blockade, rule-based decision-making, laissez-faire, or power-based decision-making. Each of these values is not directly observable but requires defining what distinct observable implications each measurable value should have to be present in the studied case-episode (Beach/Pedersen 2013: 14). Table 3 summarizes the theoretical concepts and its observable implications.

Table 3: Operationalization of Dependent Variable

Value on Dependent Variable	**Observable Implication**
blockade	no decisions in spite of decision proposals
rule-based decision-making	actors systematically accept unfavorable decisions
laissez-faire	decision proposals are systematically accepted
power-based decision-making	powerful members prevail

Source: Author's illustration.

(A) Blockade is observed when the sanctions committee produces no decisions in spite of decision proposals before it. This value requires having empirical evidence that the committee has received one or more decision proposals submitted by any relevant committee or non-committee actor, but all of these are rejected.

(B) Rule-based decision-making is observed when the sanctions committee systematically accepts decisions that are unfavorable to at least one member. This value requires having three sorts of evidence. First, one observes positive decisions that are compatible to the rules. Second, one observes negative decisions that are not compatible to the rules. Third, because the first two would not yet allow for strong inferences regarding the impact of organizational structuration, one observes that also powerful members systematically accept decisions even if they have different case-specific interests.

(C) Laissez-faire decision-making is observed when the sanctions committee systematically accepts all decision proposals. This value requires having empirical evidence that there are decision proposals submitted by any relevant committee or non-committee actor, and simultaneously, having evidence that all of these requests receive a positive decision regardless of its requestor or the request's content.

(D) Power-based decision-making - as possible outcome expected in decision-making in a uniform Council decision process and as alternative explanation on committee level - is observed when the Council or the committee accepts decisions that are in line with the interests of powerful members regardless of the content of the request. This value requires having empirical evidence of package deals and linkages that compensate for losses of competing powerful members. If actors operate in power-based decision-making, one would expect to observe weak states proposals being rejected while powerful states requests would be accepted in packages.

The empirical measurement is conducted through a comparison between (1) the number and content of submitted decision proposals vis-à-vis (2) the number and content of the final decisions adopted. Concerning the former, submitted decision proposals are measured indirectly. Because Council and committee proceedings are not public, the analysis has to rely on relevant internal documentation, and where not available, rely on secondary sources including news coverage and reporting by close observers. Concerning the latter, for final collective decisions we have to distinguish between positive and negative decisions. Positive decisions are published in Council resolutions and committee press releases. Negative decisions are also not public per se, because they remain within the confines of the Council or the committee. Again, they have to be measured indirectly and are either available through internal

documentation or documented by a systematic analysis of news coverage (see section 3.4). The research design partly compensates for potential biased results. It takes most contentious decision proposals, which have a high likelihood of being reported, into the focus, because these proposals can increase our confidence in the postulated theoretical mechanism most. Formal rules are public documents, while informal rules including precedents have to be measured on the micro-level.

3.3.2 Operationalization and observable implications of causal mechanism

Before collecting empirical evidence, the theoretical expectations have to be translated into case-specific observable implications of the behavior of relevant actors (Beach/Pedersen 2013: 14). Causal inference in process tracing is conceptually entangled with specific steps of a mechanismic and deterministic process. Because these mechanisms are not directly observable, process tracing requires carefully formulating case-specific predictions of what kind of evidence the researcher should be able to 'observe' for each causally relevant part of the mechanism (Beach/Pedersen 2013: 95–105). Therefore, the empirical analysis of the separate case episodes should proceed in the following analytical scheme (see Table 4).

Table 4: Observable Implications of Theoretical Mechanism of Committee Governance and Alternative Explanation

	Theory	Empirics	Alternative explanation
	Causal mechanism	**Observable implications**	**Observable implications**
Independent variable	Separation of rulemaking and rule-application	- Blockade - Laissez-faire	- Blockade
Parts of causal mechanism	Rulemaking	- attempts for formal rules/precedent	- package deal
		- no exceptions for powerful members in rules	- exceptions for powerful members in rules
	Rule-application	- proposals are aligned to rules	- proposals are aligned to interests
		- proposals are treated separately	- proposals are accumulated to package deal
		- same criteria are applied to every proposal	- different criteria applied to every proposal
		- proposals compliant to rules are accepted	- powerful member's proposal is accepted
		- proposals non-compliant to rules are rejected	- less powerful state's proposal is rejected
		- quality of the request determines decision	- power resources of the requestor determines decision
Dependent variable	Decision-making	- Rule-based decision-making	- Power-based decision-making

Note: Author's illustration based on Beach/Pedersen 2013: 59.

Step 1: Identification of demand for regulation. In this step I question for what reasons Council members would actually adopt rules at all. Organizational substantive and procedural decision criteria are perceived as specific forms of structuration of organizational decision-making processes. Without an initial set of

rules, there would be no structuration of decision processes. At the same time, without demand for such regulation, there would also be no such rules. In this step, the analysis seeks to assess, whether or not the current set of rules gives rise to decision problems or alternatively package deals. However, the analysis has to take precautions against falling prey to the fallacy of ex-post rationalization as the observation for the regulatory demand has to precede its solution and cannot be derived from the solution ex-post.

As regulatory demand cannot be directly observed, it is operationalize through the following observable implications. First, one has to observe if the decision proposals are truly separate from each other or if they at least are processed as separate agenda items, which precludes actors from finding mutually acceptable cooperation solutions through adoption of decision packages. Second, regulatory demand can be observed through instances of internal decision problems within the governance system of the form of blockade or through dysfunctionality of the governance system vis-à-vis the environment as observable through laissez-faire decision-making on the macro-level.

Step 2: Regulation of decision problems by rules or observation of decision packages. In this step, I ask how actors resolve the regulatory demand. Generally speaking, actors have two possibilities. First, actors could engage in adopting substantive and procedural decision criteria within the UNSC or the sanctions committee to provide focal points for the coordination of behavior. As a second option, actors could sideline single-case decision-making by explicitly accumulating many single-case decisions to a comprehensive package deal within the Council or the sanctions committee.

Instances of regulation can be assessed through the following observable implications. First, this requires finding observable instances of actors submitting decision proposals for decision packages within the committee or the UNSC. Second, the analysis seeks to observe actors that table decision proposals for rulemaking in the form of formal rules or precedents.

Step 3: Consequences of rulemaking. In this step, I assess which constraints actors face, if they want to adopt substantive and procedural decision criteria. After the demand for regulation and its actual solution through rules was established, I study,

how the decision function of rule-making impacts actors behavioral options. For adopting rules actors principally have two options. First, they can agree a formalized set of rules. Second, they can adopt a single-case decision that will serve as a precedent for later similar cases. Both have a generalized character and must be consistent. This should hold true empirically for both, UNSC and committee in their function as rulemaking entities. In this stage, the empirical analysis also has to account for potential failures of rulemaking, which would not lead to an expected change in the actors' opportunity structure.

The consequences of rulemaking on actors, particularly the consistency requirement and resulting median preferences, can only be observed indirectly because often there is not enough data covering the entire negotiation process. Therefore, I will proceed with an indirect measurement and seek to assemble counter-evidence. In case one can observe specially crafted exceptions clauses for particular UNSC stakeholders, one has reasons to believe that the consistency requirement is not at work. Therefore, I seek to assess, if actors create special rules for exceptional cases that only benefit few individual actors, in particular the great powers. Thereby, not the wording of a general rule is decisive, but its (intended) effect.

Step 4: Consequences of rules on rule application. How do substantive and procedural criteria affect the discretion of committee members? Do rules have a disciplining effect on decision-makers? The consequences of rule-application are made observable through changes in the decision situation of actors. To begin with, the consequences of rule-application on the available behavioral options are analyzed. If rules have an effect, I would expect that actors who seek to maximize their output would actually align their decision proposals to the rules to increase the likelihood of their adoption.

As observable implications for evaluating how rules impact decision proposals, the possible range of discretion without violating the altered rules will be assessed. Then, the range of decisional options will be compared with the actual decision proposals. I seek to observe if actors actually align their decision proposals to the rules and refrain from submitting decision proposals that do not conform to existing rules. One would also expect to observe that the committee treats each proposal separately and applies the same criteria to every proposal alike.

Step 5: Consequences of rule application on binding effect of rules. In this step, I evaluate if the adopted rules in fact unfold a binding effect even on the most powerful actors. Only if rules also bind powerful actors, they are a true expression of structuring the decision situation of committee members and not merely symbolic.

I question whether or not actors in practice comply with the rules. Strong indicators are those decision proposals that are collectively dismissed, because they do not fit to the rules. In addition, the analysis will look if there are documented cases were the rules are violated. However, particularly critical cases for the existence of the theoretical mechanism are those, where powerful members, especially the permanent members, accept the rules, even for cases in which they have high stakes and diverging case-specific interest. Conversely, a weak state that successfully submits a rule-conforming case even against the situation specific interests of a permanent member provides strong evidence for rule adherence.

The causal mechanism of rule-based decision-making competes with a strong alternative explanation for committee decision-making (see Table 4 above; Beach/Pedersen 2013: 95–105). To that effect, the empirical analysis is based on the counterfactual scenario of power-based decision-making in the committee (on counterfactuals see Levy 2010). In terms of rulemaking, powerful members would attempt to insert one-sided exceptions in bargaining over rules that maximize their payoff in a package deal over the content of rules. In terms of rule-application, we would expect to see decision proposals that are entirely aligned to the requestor's interests and are accumulated to decision packages. While UNSC members would face a similar decision problem, i.e. to adopt a number of single-case decisions in light of strongly diverging interests to give effect to a sanctions measure, they would resort to a different decision solution in face of decision blockades. Decisions would be the result of a comprehensive bargain among the powerful members. The content of decisions could be sufficiently-well explained by the preference constellation of the UNSC members and their relative power position in the bargaining process. As rational utility maximizers they will use all kinds of power resources available to them to achieve bargaining outcomes that are favorable to them. In effect, powerful members' requests are expected to be granted while less powerful states' requests are

expected to be rejected. In this case, the requestor's power resources determine the decision.

To empirically assess instances of bargaining is not trivial (see also Kerler 2010: 124–125). The present analysis will use an indirect approach. The veto-yielding permanent members will not agree to any decision negative to them. This implies that veto powers will only accept least common denominator agreements, unless actors adopt decision packages or issue credible threats or bribes. First, actors could simply aggregate a number of single-case decisions to larger package deals to compensate individual losses from a single case decision with gains in other cases. For instance, for the listing of individuals to sanctions lists, permanent members could simply aggregate a number of listing proposals to achieve a mutually beneficial package. In these cases, the assessment of acceptability of decisions would be solely based on the situation-specific interests of its members. In some sanctions regimes, the UNSC actually does decide without recourse to a committee (e.g. Iran, Libya and Sudan). In these cases we would not expect an effect of structuration because its causal forces are sidelined. Second, decision makers could offer positive ('bribes') or negative ('threats') incentives to shift the cost-benefit calculation towards accepting a decision (on this see Vreeland/Dreher 2014). In effect, we should expect to see that the power resources of the requestor determine the decision to the effect that a powerful state's proposal is accepted while a less powerful state's proposal is rejected.

In each of the studied case episodes, the merits of the causal model will be evaluated along the analytical scheme. In a first step, it will be assessed if the conditions for the functioning of the mechanism are given and if so, in a second step it will be tested if the theoretical mechanism worked as expected. For that purpose, the empirical case studies of the analysis contain three sections.

Description of origins of sanctions regime: In this section, the preferences of the actors are assessed and analyzed, which actors drive the sanctions regime, how the interests of the major actors are distributed and if we therefore would expect the mechanism to function. Next, the analysis proceeds with describing the original rule-set at the time of the regime's establishment. Are there already rules and why so? Do actors already expect decision-making issues?

Analysis of decision-making along the analytical scheme: In this section, the sanctions regime will be split into case episodes. Each case episode is analyzed along the analytical scheme outlined above in order to generate evidence confirming or disconfirming the postulated causal mechanism.

Assessment: In the third section, I will draw conclusions from the operation of the mechanism in the case for the general virtue of the mechanism. Thereby, the empirical result will be compared to the original theoretical expectation.

3.4 Data sources

In any form of scholarship, the researcher has to be absolutely transparent about the data sources including their public availability, the time frames under investigation and the specific method of analysis used, to ensure the replicability of the analysis. Even more so in small-n qualitative case study research, replicability is one of the crucial issues when conducting because it enables other research to re-trace the empirical evidence and re-evaluate the analysis' merits often based on large sets of documents (Beach/Pedersen 2013: 120–143; Blatter/Haverland 2012: 67–68; Moravcsik 2010: 30–33). Accordingly, to ensure highest levels of replicability and transparency, all files referenced throughout the analysis, even those that are publicly available, are on file with author and can be obtained upon request.

As others have noted, tracing UN decision-making processes and in particular those in the highly secretive Security Council is difficult. This is mainly the result of the fact that these processes usually do not happen in the public domain, but in highly informal settings such as Council consultations with no public record. Often these processes take place in bilateral negotiations. Commonly, only the end-result of an informal negotiation can be directly observed (Smith 2006: 224; Heupel 2009: 307–308; Reisman 1993). This is even more valid for sanctions committees that meet in private and keep little public documentation ('culture of secrecy', Conlon 2000: 35; Conlon 1996b: 272; 283-284; Sievers/Daws 2014: 520). Nonetheless, the large number of primary Council documents allow for a reconstruction of the dynamics of sanctions regimes and their complex governance structures. To provide replicable

empirical evidence, this study relies mainly on written primary documentation to the extent possible.

On the level of the Security Council, the analysis will draw on formal Council decisions including resolutions, presidential statements and presidential press statements, in addition to annual reports and verbatim records of relevant Council meetings (i.e. transcripts of formal sessions, denoted by S/PV.****), letters sent by UN member states and Council presidency notes. Other UN documentation includes the 'Repertoire of the Practice of the Security Council' and different UN publications. Further sources used more sporadically include statements at informal Council retreats (e.g. 'Hit the ground running' workshop summaries), reports by other UN entities (e.g. Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism), documents of the UNSC Working Group on General Issues of Sanctions or other sanctions reform processes (e.g. Bonn-Berlin process).

On the level of the sanctions committees, the analysis will draw on information provided on committee formal procedures as adopted in the consensus-based 'Guidelines of the Committee for the Conduct of its Work', formal documents relating to committees decisions (usually in press releases), the publicly released sanctions lists ('consolidated list') and associated 'narrative summaries of reasons for listing' as well as other committee documents, including committee annual reports. As a major source of information serve the reports provided by the Panel of Experts that are now regularly created as a source of independent information. These include mid-term briefings to the committee (not always public) and final reports issued as Council documents (provided at the end of a mandate cycle, usually public). In addition, for some sanctions regimes, regime-specific information sources are available. Specifically for the Al-Qaida/Taliban sanctions regime, Office of the Ombudsperson documentation including the annual reports and 'status of cases' documentation is particularly valuable.

The present analysis will make use of two previously unused or unavailable data sources. First, for the Iraq sanctions regime, the analysis will mainly draw on a unique, exceptionally detailed and readily available data source, the *Paul Conlon United Nations Sanctions Papers*, donated to the Special Collections Department,

University of Iowa Libraries in Iowa City, Iowa by a former UN Secretariat member servicing the Iraq sanctions committee.[1] The documentation is open for research and the author has personally reviewed the documentation at the University of Iowa in December 2013. With very few exceptions (Conlon 2000; Hakimdavar 2014; Koskenniemi 1991; Gordon 2010 used similar documents; Scharf/Dorosin 1993 used Yugoslavia committee documents), this unique source of information has been neglected. The documentation includes detailed records of 120 Iraq sanctions committee meetings from 1990 to 1995. The 'summary records' of meetings, which record all verbal interventions in UN reported speech, are denoted as 'SR.x' for 'summary record' of meeting 'x'. Information about the outcome of requests are available in committee 'communication logs' (so-called COMM-logs), available from 1990 to 1993. Communications are denoted as 'S/AC.25/1991/COMM.53' and read 'Security Council subsidiary organ 25' (i.e. Iraq sanctions committee), year 1991, document is a 'communication' (i.e. letter sent to Iraq sanctions committee by UN member state or other organization) number 25 in annual consecutive numbering, here short '1991/COMM.53' (Sievers/Daws 2014: 465–467). Additional documents also include internal memoranda and Conlon's personal notes. Iraq committee files referenced throughout chapter 5 are on file with the author.

The 'status of communications' lists have been used to produce a dataset of nearly 8,200 humanitarian exemptions decisions made by the Iraq sanctions committee from 1993 to 1995. The documentation contained the status of communication lists for Iraq sanctions committee meetings 100 to 121. Data from meeting 103, 106, 108, 114, and 119 is missing or password protected in the electronic version. The author hand-coded humanitarian exemptions requests into item categories according to the UN Standard International Trade Classification (see section 5.2.3). The dataset includes additional information on requestor, the committee decision (accepted or rejected) and reasons provided for in case of objections or holds.

[1] For catalogue entry see: http://www.lib.uiowa.edu/scua/msc/tomsc550/msc529/msc529.htm [09 February 2015].

Second, the analysis also draws on the unique collection of US diplomatic cables ('Cablegate') as publicly available through the *WIKILEAKS Public Library of US Diplomacy* website.[2] The documentation contains more than 250,000 cables mostly from 2003 to 2010 sent between US diplomatic missions including the US Permanent Mission in New York and the US State Department. The leaked cables provide a data source that has been previously under-researched particularly in UNSC sanctions research following a trend in political science to only reluctantly access leaked information as data source (Michael 2015b: 175–177). While leaked information might be imperfect in quality, incomplete or biased, this also applies to all other accessible primary data sources. Although US cables only convey the US perspective, there is reason to believe that they are less prone to misrepresentation than press articles. From an ethical perspective, using leaked cables will not cause any additional harm since the information has already been public for years. Also legal concerns seem to be overstated. As a result, Cablegate documents provides a unique and accessible research opportunity and allows for controlling differences in publicly held positions and private discussions. Moreover, it allows for illuminating political phenomena that usually take place in otherwise hard to access environments (Michael 2015b: 178–184; for a discussion of such issues, Tucker 2010; Voeten 2010; Michael 2015a; Drezner 2012; Weidmann 2015). The author conducted systematic text-based searches within the collection of diplomatic cables for the studied case episodes on relevant Council decisions and committee decision functions. All cables used are on file with author.

Besides the official and available Council and committee documentation, other non-official data sources will be systematically used to fill gaps resulting from Council and committee secrecy. First, the analysis based on media sources including press articles, press agency reports and interviews distilled from the Lexis-Nexis database. To ensure geographical balance, the analysis will draw both on major Western sources (e.g. AFP, Associated Press, and New York Times) and non-Western coverage (e.g. Xinhua). Second, reporting by close Council observers, in particular

[2] https://www.wikileaks.org/plusd/about/ [22 March 2016].

the coverage issued by *Security Council Report*[3] (SCR) including the 'Monthly Forecast', 'What's in Blue' and 'Special Research Reports', will provide additional non-official data sources. Third, a number of reports and publications of other international organizations, non-governmental organizations and think tanks will be employed. Fourth, this study makes use of secondary literature on the Security Council, sanctions, international law, the due process critique and sanctions regime-specific literature. Memoirs of former (Council) diplomats (e.g. Annan 2012; Bolton 2007; Hannay 2008) also proved useful.

The conducted semi-structured interviews served an exploratory function, with few exceptions. On the one hand, interviews were instrumental in selecting units of analysis, suitable cases and theoretically-relevant case-episodes as well as acquiring further data sources. On the other hand, the author sought confirmation of his interpretation of the data available. The author has conducted a total of 35 interviews with current and former committee diplomats, other UN member states, members of Panel of Experts, and close observers, across all cases. In particular when data is scarce, other authors have frequently resorted to interviews (see for instance Barnett/Finnemore 2004: 12; Deitelhoff 2009). However these authors have also pointed to the difficulties in conducting interviews with diplomats in sensitive UNSC negotiation environments, which are difficult to get in the first place and involved interviewees who are hesitant to release confidential information "on the record" (Malone 2006: 3; 'background conversations', Heupel 2009: 308; on interviewing in security studies, Davies, Philip H. J. 2001; on 'getting in the door' in elite interviewing, Goldstein 2002). To avoid circular reasoning, to maintain full confidentiality of interviewees and to ensure replicability, the conducted interviews were sparingly used and often entirely replaced by written sources.

Concerning the time frame under consideration, the analysis seeks to trace empirical evidence for the selected case episodes. Consequently, empirical evidence is assembled pre-regulation and post-regulation. A central concern in providing a valid and reliable measurement is represented by the functionalist fallacy of circular

[3] Security Council Report is at http://securitycouncilreport.org/ [22 March 2016]. All cited SCR documents are available online.

ex-post rationalization that provides explanations of a tautological nature. This fallacy hints at deducting the cause of a phenomenon from the phenomenon's occurrence. For instance, regime theory was criticized for its potential for "post hoc arguments" (Hasenclever et al. 1996: 195) explaining the existence of an international regime as a result of the functions it serves (Keohane 1984: 81; Hasenclever et al. 1996: 195–196). In contrast, a proper application would require to specify interests ex-ante to explain cooperation outcomes (Keohane/Martin 2003: 83–84). Hence, the researcher has to ensure that actors' preferences are not merely derived from observable behavior. Accordingly, any empirical investigation has to avoid tautological reasoning by acquiring independent empirical evidence for each step of the analytical scheme. Since the main object of this study is the effect of regulation on decision-making in selected case episodes, the analysis will trace the process from the decision-making problem, over the adopted regulation to effects on decision-making in time-frames ranging from six months to one year before and after the relevant regulation.

3.5 Chapter summary

Theory-testing process tracing is a viable methodology for the purpose of this study, although it faces some limitations. Process tracing fulfils the prerequisites that follow from the central objective of this research project that lies in analyzing whether or not the causal mechanism is present in the empirical cases and if it worked as postulated.

The UN Security Council provides a meaningful object of investigation as a hard test case for a theory of committee governance in international organizations. Exactly because we can be skeptical to find the theorized mechanism due to the strong presence of rival explanations, our confidence in the mechanism will substantially increase, if we actually discover it. As a result, if we can observe the effects of structuration of organizational decision-making in a purely intergovernmental organization, although institutional features that usually are associated with such effects are absent, we would also expect it to be present in more institutionalized contexts.

To achieve a sufficient breadth of empirical observations and to avoid drawing premature conclusions from regime-specific particularities, the analysis is focused on

five UNSC sanctions regimes, which itself will be divided into theoretically-relevant case episodes. First, the comprehensive sanctions against Iraq allow for assessing, whether or not the postulated effects also emerge in the absence of the infringement of individual due process rights. The Al-Qaida/Taliban sanctions regime, the DRC sanctions regime and the Sudan sanctions regime serve as cases in which the committee has to decide about listing and delisting of individuals and entities subject to targeted sanctions. In fact, in the Sudan sanctions regime as a negative case, the boundaries of the postulated mechanism are investigated. Finally, the Iran sanctions regime combining targeted sanctions with commodity sanctions on dual-use items complements the analysis.

Preceding the case studies, in the next chapter, the complex governance systems of UNSC sanctions regimes are analyzed focusing on the exact division of labor between the UNSC, the committee and other relevant entities. In particular, it is investigated which functions the UNSC retains and which functions it transfers to its sanctions committees and what consequences for decision-making we would therefore expect. In addition, the general incentive structure resulting from the particular organizational arrangement is explicated to investigate the incentives to engage in rule-based governance.

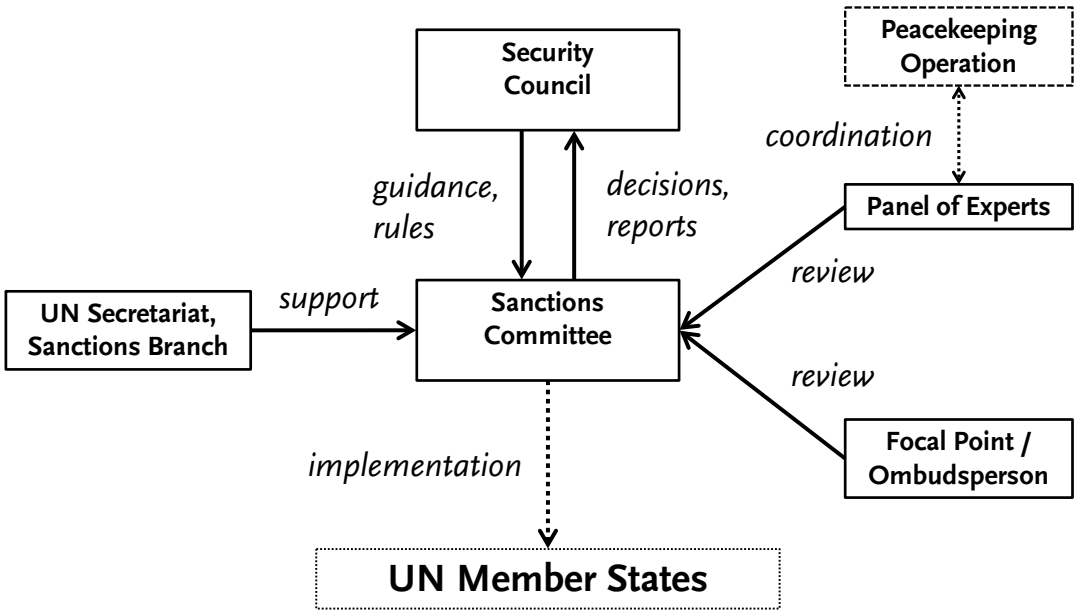
4 Security Council Sanctions Regimes as Complex Governance Structures

The institutional structure of the UNSC sanctions regimes is considerably differentiated and relies on a system of divided labor among its various subsidiary bodies. In fact, the Security Council creates a "complex, multilayered governance system" for the administration of sanctions (Farrall 2009: 203). Within the governance system of UNSC sanctions regimes, each of the bodies performs a distinct function. Each of the bodies also has a particular composition and operates under specific substantive and procedural rules either given by another body or emerging from its own decision practice. Within their specified mandates, decision-makers face institutional constraints that have an effect on the viability of preferred individual choices. As a consequence, in contrast to usual Council decision-making, the organizational output of sanctions regimes is the result of a complex interplay of various bodies.

In this chapter, I analyze the fundamental structure of UNSC sanctions regimes with a focus on scrutinizing the exact division of labor between the bodies involved, in particular which functions the Security Council retains and which functions it transfers to other subsidiary bodies, what consequences this has for decision-making within the whole governance system and if so, what tools of governing these delegation relationships are applied. Additionally, I elucidate the general incentive structure provided by the organizational arrangement of sanctions regimes and analyze if the decision situation provides incentives to systematically forego the introduction of committee members' bargaining power. I argue that while the relatively vague legal basis of the UN Charter (Gowlland-Debbas 2001: 7–9) leaves Security Council members with wide-ranging discretion as how to administer UNSC sanctions regimes and thus leaves room for the pursuance of situation-specific interests, committee governance comes with significant constraints for decision-makers. As a result of the complex structure of sanctions regimes, the effective functioning of the governance system creates demand for rules or rules derived from precedents.

Within UNSC sanctions regimes, the decision process is divided among five major bodies that perform distinct functions (see Figure 2). At its center, the Security Council sets up the structure of the sanctions regime and guides the subsidiary bodies through the provision of substantive or procedural rules contained within its sanctions resolutions. However, principally, Council members retain the right to take implementation decisions anytime by means of a Council resolution (section 4.1). Next, the sanctions committee is tasked with taking implementation decisions such as listing and delisting of individuals or granting exemptions from trade embargoes (section 4.2). In addition, sanctions regimes usually also have a reflexive component in the form of Panel of Experts that review committee activities, monitor member states implementation and provide information for the sanctions committees' operations (section 4.3). Sanctions committees are supported in their activities by the UN Secretariat "Sanctions Branch" (section 4.4). Moreover, sanctions regimes are complemented with a mechanism for the review of single-case decisions (Focal Point/Ombudsperson, section 4.5). Finally, section 4.6 will focus on the dynamic nature and periodicity of sanctions regimes as complex governance structures.

Figure 2: The Governance Structure of UNSC Sanctions Regimes



Note: Author's illustration.

The Council transfers additional functions to other subsidiary organs or remote organizations interacting with sanctions regimes. In some cases this requires other organizations to further process sanctions regimes' outputs and therefore any sanctions regime needs to produce compatible decisional output. For instance, Interpol issues Interpol-United Nations Security Council Special Notice on listed individuals and entities to increase effectiveness of member states implementation and relies on information provided by a respective sanctions regime (see Romaniuk 2010: 97). In addition, in sanctions regimes dealing with internal armed conflicts, peacekeeping operations can become a part of the governance system, for instance, by supplying information on sanctions violations or by cooperating with the relevant expert body (Boucher 2010). In the non-proliferation sanctions regimes, international transgovernmental networks such as the Nuclear Suppliers Group (NSG) (Verdier 2008) or the Missile Technology Control Regime (MTCR) serve as expert bodies to supply lists of banned items for proliferation or ballistic missile related goods regardless of the specific sanctions case. The Financial Action Task Force provides recommendations for implementing targeted financial sanctions (Romaniuk 2010: 133–136). Finally, UN member states have to implement collectively binding sanctions decisions for sanctions to become an effective regulatory tool.

4.1 The Security Council as master of its sanctions regimes

The Security Council as the central entity of the governance system provides the framework for all other bodies and decides about the political direction of its sanctions regimes. The Security Council consists of 15 members, five of which are permanent members (P-5): China, France, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, and the United States of America. The other ten are the non-permanent members elected by the General Assembly for a term of two years with no possibility for immediate re-election (UN Charter art. 23). Decisions on substantive issues such as the adoption of resolutions are taken by nine affirmative votes with none of the permanent members voting against, constituting what is generally referred to as 'veto' (UN Charter art. 27; also Simma et al. 2012).

The Security Council, as the "(…) parent body which exercises both authority and control (…)" (Paulus 2012: 989) over its sanctions regimes while leaving the day-to-day activities to its sanctions committees, serves four core functions within sanctions regimes. First, the Security Council defines the scope, type and duration of sanctions measures adopted under Article 41 of the UN Charter. The Council is empowered to "decide what measures not involving the use of armed force are to be employed to give effect to its decisions (…). These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations" (UN Charter art. 41). In essence, the Security Council enjoys wide discretion as how to 'give effect to its decisions' when it decides about the scope and duration of sanctions measures. Over time, the quality and quantity applying of such measures has evolved considerably (Farrall 2007: 106). The Council has shifted from comprehensive to "smart sanctions" (Brzoska 2003) and sizably increased the frequency of their adoption from two cold-war cases to 30 cases after 1990 (as of January 2016, for a complete list, see Annex 1).

Basically, sanctions serve three purposes for the Security Council: to coerce behavioral change, to constrain sanctions target's activities or to signal to the international community that a particular behavior is unacceptable (Biersteker et al. 2013: 12–15; Chesterman/Pouligny 2003: 504–505; Giumelli 2011). The Council applies sanctions to achieve a variety of different objectives, including conflict resolution in interstate and internal conflicts (e.g. DRC), restoring democracy (e.g. Haiti), nuclear non-proliferation (e.g. DPRK), protection of civilians and their human rights (e.g. Libya II) and counter-terrorism (e.g. Al-Qaida) (Security Council Report 2013: 3–5; Biersteker et al. 2013). Regarding the targets, the Council has initially applied sanctions against state targets, de facto state targets (in case of an unrecognized government) or failed state targets, while now almost exclusively imposing sanctions on distinct groups within states or even individuals (Farrall 2007: 128–132). This trend towards a more "selective approach" to target particular individuals and group(s) while avoiding unintended consequences for the civilian population (Weschler 2009-2010: 32–33; 35) was mainly the result of the humanitarian impact of comprehensive sanctions against Iraq, Yugoslavia and Haiti

(Weiss et al. 1997; Brzoska 2003: 528–529) and the sanctions reform processes sparked by these experiences (Brzoska 2003; Biersteker et al. 2005).

Regarding the types of sanctions measures the Council applies under Article 41, the measures can be categorized according to their degree of discrimination. The Council has imposed comprehensive sanctions, i.e. a ban on imports and exports of all tradable goods with the target country while allowing for certain humanitarian exemptions, on Southern Rhodesia during the Cold War, and on Iraq, Yugoslavia and Haiti during the 90s (Farrall 2007: 107–108). Sanctions on whole core economic sectors, such as an embargo on petroleum products are more discriminating than comprehensive sanctions. Aviation sanctions or commodity sanctions on specific products (e.g. timer, diamonds, charcoal, or wildlife products) do affect only certain sectors and/or regions. A widely used tool, the imposition of arms embargoes or non-proliferation related measures on countries, regions or even individuals are among the more focused sanctions. Finally, the application of targeted sanctions on individuals and groups including assets freezes, travel bans and arms embargoes are the most discriminating and currently widely used sanctions tools (Farrall 2007: 106–128; Biersteker et al. 2013: 16; Security Council Report 2013).

Second, Security Council members can simply decide about potential sanctions implementation decisions such as listing of target individuals without recourse to a sanctions committee. Whilst Council members can refer functions to its subsidiary bodies, they can also remove authority from a subsidiary body or selectively take up single-case implementation decisions. In fact, proactive members generally have two options to get implementation decisions adopted, either through committee decisions or a Council resolution. Sanctions proponents can refer implementation decisions to the Council for various reasons including a committee blockade, an anticipated committee blockade, in case prompt decisions are warranted or for raising a decision's public profile. For instance, during the hasty negotiations over the Libya sanctions regime (resolutions 1970 (2011), 1973 (2011) and 2009 (2011)) and within the politically contentious Iran sanctions regime (resolutions 1737 (2006), 1747 (2007), 1803 (2008) and 1929 (2009)) Council members adopted package listings by means of Council resolutions. Similarly, while the Council had created a sanctions committee competent to list individuals and entities in the Sudan sanctions regime

(resolution 1591 (2005)), proactive Council members circumvented the committee which was unable to designate individuals (Holslag 2008: 81–82) and successfully proposed listing four individuals in resolution 1672 (2006). In 2014, the Council added further individuals to the Al-Qaida/Taliban sanctions list by resolution 2170 (2014) to raise the public profile. It is a widely held view that decisions emerging from an undifferentiated setting (i.e. by Council decision) can be expected to be the result of a bargaining process where actors enter their individual decision requests and accumulate a package deal (e.g. Bosco 2009, 2014a). The accountability control of the decision solely rests upon the situation-specific interests of actors involved. In these cases, the logic of rule-making in the Council and adoption of small implementation decisions in the committee is sidestepped.

Third, as a second, most common option, the Council refers implementation decisions to subsidiary bodies and thereby decides about the structure of sanctions regimes through assigning specific functions to its subsidiary bodies created under Article 29 of the UN Charter (Paulus 2012). Because the Security Council cannot perform all its tasks itself, the Council is in need of subsidiary organs. Many of the more administrative governance tasks associated with the maintenance of international peace and security including sanctions implementation decisions would either severely overburden an undifferentiated Council or would require increasing decision-making by independent experts or the UN Secretariat. This is most visible in the establishment of the criminal tribunals on Yugoslavia and Rwanda or the UN Compensation Commission, which had an adjudicative function that needed to be carried out impartially and independently within a given mandate (Di Frigressi Rattalma/Treves 1999). In recent times, the SC has increasingly resorted to the use of subsidiary bodies, indeed, "(…) subsidiary organs have become an indispensable tool for SC governance, ranging from judicial and quasi-judicial bodies (…) to the delimitation of boundaries (…) and, in particular, Sanctions Committees" (Paulus 2012: 987).

In absence of specific provisions on the creation of subsidiary organs in the UN Charter, the Security Council enjoys considerable discretion as how to design its sanctions regimes. As such, Article 29 provides a wide-ranging legal basis for the establishment of subsidiary bodies. On the one hand, the article requires that the body

must be ‘subsidiary’ (Paulus 2012: 987–989). The subsidiarity implies that the body has some capacity to act independently of its ‘parent body’. On the other hand, a subsidiary organ must be “deem[ed] necessary” for the maintenance of international peace and security. The Council must possess competence in area concerned and must respect the separation of powers between the UN’s principal organs, in particular the General Assembly (Paulus 2012: 991–992). While legal limits of the Security Council’s powers in respect to its subsidiary organs have come under scrutiny, Article 29 does not provide any substantive limits to the Council’s discretion (Paulus 2012: 987). The Security Council has manifested its ability to establish and dissolve subsidiary organs in rule 28 of its provisional rules of procedure, stating that it “may appoint a commission or committee or a rapporteur for a specified question” (Paulus 2012: 993; Bailey/Daws 1998: 333). Subsidiary organs are established and dissolved by a Security Council vote, although in practice many subsidiary organs have sunset clauses. Indeed this issue has been debated in the Informal Working Group on General Issues on Sanctions, which ended in a compromise that country-specific sanctions regimes would have a sunset clause while a simple roll-over is not vetoed, whereas measures against global threats to the peace are of indefinite duration, as for instance the 1540 committee (Weschler 2009-2010: 39–42; Brzoska 2003: 523). As a result of the veto procedure, it is difficult to establish but also difficult to dissolve a sanctions regime once established (Paulus 2012: 993–994).

Fourth, the core task of the Security Council, once it has delegated decision competencies within its sanctions regimes, is to politically guide subsidiary bodies through rule-making (Conlon 1995a: 329). In sanctions regimes, the Security Council usually completely transfers small implementation decisions such as listing and delisting or granting exemptions from a comprehensive trade embargo to subsidiary bodies and thereby gives rise to governance issues associated with single-case decision-making within the subsidiary bodies when interests diverge. While each single decision taken within the committee is of a marginal importance to the achievement of the general cooperation project, the sanctions regime relies on ability of the governance system to produce a meaningful outcome on the macro level. While such delegation is entirely intended to relieve the Council’s decision-making apparatus from taking all too detailed single-case decisions, the Council forfeits the ability to solve conflicts emerging from different interests by aggregating single

decisions to packages. As a solution to these emerging decision-making issues, instead, Council members have to concentrate on politically guiding the decision-making process through defining the mandates, powers and decision-making procedures applicable in its subsidiary organs. As such, the Council can decide which substantive and procedural prescriptions it provides to the subsidiary bodies.

The Security Council usually makes use of its governance function and directs the work of its subsidiary organs through the adoption of resolutions outlining the principles of their work. In fact, Council resolutions form the central "legislative instruments" to guide sanctions regimes (Conlon 1996a: 75). The essence of this governance function lies in substantive decision criteria and procedural proscriptions. While doing so, the Council has principally two options. On the one hand, the Council can adopt substantive decision criteria or procedural prescriptions to the subsidiary body. For instance, the Council could provide the committee with set of applicable listing criteria or a procedure outlining how the committee should process individual listing requests. On the other hand, the Council can require the subsidiary body to adopt or amend own internal rules of procedure and thereby letting the subsidiary body solve potential decision-making issues through 'self-regulation'. The frequent adoption of resolutions that make such substantive or procedural prescriptions illustrates that the Council uses its oversight function as to govern its subsidiary bodies, even though the same group of actors is present in the Council and the sanctions committee.

In sum, the Security Council is the master of its sanctions regimes and enjoys considerable discretion as how to organize its sanctions regimes. However, the large number of agenda items each dealing with complex issues requires efficiently organizing its workload and taking decisions in a routinized manner. As a result, the Council retreats to the function of establishing and governing differentiated sanctions regimes, mainly through resolutions. While the Council transfers its implementation decisions to its subsidiary organs, negotiations in the Council necessarily take a much broader perspective. Decisions may be linked to other parts of the sanctions regime or even across sanctions regimes as a result of package agreements. As such, imposing sanctions measures is a political tool and individual sanctions measures do not necessarily have to be directly related to each other (Conlon 1995a: 328). While the

Council deals exclusively with issues of a general nature, subsidiary bodies and in particular, sanctions committees, take a much narrower perspective within the framework of Council guidance.

4.2 The sanctions committees as implementing agents

Within the governance system, sanctions committees constitute the main subsidiary organs to take numerous small implementation decisions and are equipped with substantial decision functions. All major sanctions measures including both comprehensive sanctions and targeted sanctions require substantial follow-up decisions to meaningfully implement a sanctions regime. With rare exceptions, for instance the 1996 Sudan sanctions regime, the Council has transferred these implementation decisions to separate and specifically established sanctions committees (Farrall 2007: 147). Besides adopting implementation decisions, sanctions committees have a role as secondary rulemaking body. Both functions provide a distinct incentive structure for committee members.

Sanctions committees have three common core characteristics. First, strikingly, a sanctions committee has the identical membership as the Council and thus forms a "committee of the whole" (Sievers/Daws 2014: 520; Weschler 2009-2010: 38; Carisch/Rickard-Martin 2011: 4–5; Kaul 1996: 97). Thereby the composition follows the precedent that was set by the evolution in the first sanctions committee established in 1969 on Southern Rhodesia. After an initial phase, where this committee was composed of seven members (S/8697), in 1970, the Security Council decided that the committee consists of all Security Council members (S/9951). Thereafter, all sanctions committees established have followed this model (Farrall 2007: 147–148; Gowlland-Debbas 1990: 606–609). While other design options such as an expert committee not formed by Security Council members would have been possible in principle, however, the Council has an established practice to duplicate Council membership in its sanctions committees (Conlon 1996b: 281; Sievers/Daws 2014: 520). However, as Paul Conlon notes, the "identical membership [of Council and committee] in no way implies an overlapping of functions" (1995b: 663).

The committees are usually staffed with diplomats of a mid- and low-rank, below the level of the deputy permanent representative (van Walsum 2004: 183; Conlon 2000). In fact, committee members' representatives are career diplomats. Usually, these diplomats are generalists that served in different functions before and are not necessarily familiar with the subject matter. Mostly, diplomats usually serve in bilateral settings within their countries embassies and not in multilateral settings of the international organizations (Conlon 2000: 15; 27-28; Scharf/Dorosin 1993: 821). Depending on the size of the mission, different diplomats serve in different committees and increasingly so as the number of committees and the workload increases. Committees are chaired on the level of an ambassador. As an established practice, the Chair for each committee is selected among the E10 members, rotates on a yearly basis (initially in the first committee on Southern Rhodesia, chairmanship was fixed, later rotated with the Council presidency, see Farrall 2007: 148; Gowlland-Debbas 1990) and serves in his/her personal capacity. Each committee usually has two vice-chairs that serve in their national capacity (Security Council Report 2013: 7; van Walsum 2004: 183; Kaul 1996: 97).

Second, proceedings in the committees are not public as sanctions committees meet in private session in a meeting room with interpretation provided (Sievers/Daws 2014: 520; Weschler 2009-2010: 38; Conlon 2000: 35). Consequently, not only the deliberations are secret, but also decisions, informal rules and justifications for decisions are not public unless there is an inherent requirement to provide such information, as for example, targeted sanctions require the publication of sanctions targets (Conlon 1995a: 329). Basically, there are two meeting formats, formal and informal meetings, both of which are private. In formal meetings the Secretariat prepares a summary record of the meetings proceedings in limited distribution, i.e. not as a public document, whereas in informal meetings, no such service is provided (Bailey/Daws 1998: 365; Sievers/Daws 2014: 520). The major difference is that the committee can take decisions in formal meetings which it cannot in informal meetings. However, organizing a formal committee meeting is more effort for little benefit as decisions can easily be taken in the written no-objection procedure and Council practice has considerably shifted towards conducting informal meetings. Generally, informal sessions are indeed very formal. The chair reads out from the "Notes for the Chair" prepared by the Secretariat, following a standard practice in UN

meetings. Delegates often read out written statements and do not often speak "off the cuff", in particular because junior delegates are cautious to stick to statements previously cleared by their capital (Sievers/Daws 2014: 485–486; Conlon 2000: 29–36; see Conlon Papers, Notes for the Chair).

Third, sanctions committees decide by consensus and as a result, all 15 committee members technically have a veto (Kaul 1996: 100). Essentially, "[i]f there is no consensus, there is no decision" (van Walsum 2004: 184). The consensus rule stems from the first sanctions committee on Southern Rhodesia in 1969, which accepted consensus as its decision rule in its first meeting, later adopted by all other sanctions committees. However, the literature does not offer precise sources as to why this rule was chosen (Gowlland-Debbas 1990: 609; Farrall 2007: 156; Sievers/Daws 2014: 530). This is the most obvious difference to the Council and logic of deciding under the consensus provides a completely different structuring effect. For practical considerations, in sanctions committees, unless adopted in a formal meeting, decisions of all kind including listing and delisting, exemptions, adoption of press releases or Panel of Expert reports, are taken in a written no-objection procedure (also: silence procedure, or "simplified and accelerated 'no-objection' procedure" in early regimes, see Scharf/Dorosin 1993). This procedure provides an efficient means of decision-making, in particular in committees with the demand to take a high number of decisions (Conlon 1995b: 647; interview with UN member state official, New York, March 2012). Accordingly, the committee Chair circulates decision proposals in written form among committee members, which have three decision-making options. First, they can do nothing and accept the decision. Second, they can place a technical hold, in case they do not wish to object the decision, but do not agree with it, usually to consult with the capital or to request more information. Third, they can object the decision proposal. For a decision to be adopted, all members must not object or place a hold (UN jargon: "break the silence") within the specified timeframe which varies across committees and types of decisions (Rosand 2004: 748; Kaul 1996: 100; Farrall 2007: 156–157).

The specific organization of the decision process generally does not naturally provide a fertile ground for activating internal accountability and reverses the burden of proof to the objecting states. Objecting to a decision proposal requires action,

while accepting decision proposals can be done tacitly without any action. In addition, the ability of committee members to evaluate decision proposals depends on the time limit. In essence, time limits for decisions taken under the no-objection procedure within sanctions committees are inherent to the procedure's logic. In cases of complex decision proposals, a short time frame can pose significant limitations for committee members to respond (Kanetake 2008: 147). This is aggravated by the fact that many member states missions are limited in their ability to consult with their capitals quickly as a result of time zones differences. In such a case, decisions are difficult to challenge as actors must have good reasons for objections and provides incentives to only block decisions in cases of vital national interest. This undermines the effective operation of no-objection procedure in terms of providing incentives for rule-based and consistent decision-making (Biersteker/Eckert 2006: 29–30).

Similar to the Council, sanctions committees have wide ranging discretion as how they organize their own work and there is no requirement to follow the same working methods as other committees. Theoretically, it is thinkable that different committees – as different subsidiary organs – adopt different working methods even if they process the same task (Farrall 2007: 156) or that committees are staffed with technical experts instead of member states delegates (Conlon 1996b: 281). Although there is no requirement to establish a separate committee for each sanctions regime and other organizational designs are plausible, such as establishing a more permanent "sanctions machinery" for sanctions administration (Doxey 2000: 10–11), it is the general Council practice to do so (terrorism-related Sudan and Somalia/Eritrea sanctions are exceptions, Farrall 2007: 210, for earlier cases see Bailey/Daws 1998: 365; for later cases see Paulus 2012: 998–999). This practice is not without effect. In a unitary organ, member states would be forced to develop a coherent sanctions practice guided by overarching principles. On the contrary, the creation of separate sanctions committees limits the constraints to adopt consistent decisions that would arise out of such an alternate organizational design. For instance, the members of the non-aligned movement, mostly with majority Muslim population demanded a more lenient sanctions policy within the Iraq committee while pushing for a more aggressive approach towards Serbia in the Yugoslavia committee (Conlon 1995a: 329). Yet, this form of organization provides possibilities to engage in forum shopping. For example, the individual "Jim'ale", who was delisted from the Al-Qaida

list in anticipation of an Ombudsperson de-listing, was instantly listed in the Somalia committee (Eckert/Biersteker 2012: 19, 39).

Concerning specific decision functions, sanctions committees form the main subsidiary body of sanctions regimes and provide two core functions: decision-making, and rule-making alongside the Council (Krisch 2004: 886). The former and major function of sanctions committees is to adopt small, separate case-specific implementation decisions in the "day-to-day operation of the regime" (Krisch 2004: 886), which the Council delegates to the committee (Security Council Report 2013: 6; Farrall 2010: 194, 2007). As such, sanctions committees in a system of divided labor mostly perform an "administrative function" (Conlon 1995b: 646) for "(…) matters of the type that in Western societies are handled by regulatory bodies" (Conlon 2000: 31). The types of case-specific decisions vary by the design of sanctions measures. Whereas the administration of comprehensive sanctions requires deciding about exemptions from a trade embargo on a case-by-case basis, for targeted sanctions regimes to become effective they require the listing and delisting of individuals and entities as well as granting humanitarian exemptions from assets freezes and travel bans. In addition, arms embargoes require deciding about exemptions for peacekeeping operations or governmental forces. In addition, other functions include evaluating reports by member states or UN entities such as the Panels of Experts concerning the implementation of the sanctions measures, evaluate cases of sanctions evasion or non-compliance, report to the Council on its work through briefings and written reports and other tasks as assigned by the Council (Carisch/Rickard-Martin 2011: 4; Security Council Report 2013). Although these types of decisions are different in substance, they have in common that they are small potentially separated single-case decisions, while each single case has only marginal importance on its own.

While principally any unresolved or contentious matter on the committee's agenda may be referred to the Council by any of the committee members, all member states have strong incentives to leave matters within the committee arena. On the one hand, the non-permanent member states enjoy much a stronger position in the committee than in the Council, as every committee member can block decisions. On the other hand, the permanent members, although having a stronger position in the

Council due to their veto and the majority requirement of nine affirmative votes instead of consensus, risk exposing their motivations and politicizing an issue of very limited scope. Although Council decisions are likewise mainly prepared in closed-door meetings, agenda items, decision proposals and decisions are far more transparent in the Council than in the committee and subject to enhanced public scrutiny. In addition, this move would severely undermine the intended function of the committee to relieve the Council of making a range of decisions of a small scope. While the option to refer issues to the Council has been applied in a few sanctions regimes (for instance on Sudan, resolution 1672 (2006)), it was never used in others.

Besides adopting implementation decisions and although the Council is the primary source of rule-making, the sanctions committees perform a significant rule-making function alongside the Security Council. The separation of the two main functions of rulemaking and rule-application is observable in sanctions regimes, although this does not materialize in a clear separation between the organs. Besides its function as a decision-maker on small implementation decisions, sanctions committees specify the rules given by the Council and elaborate new rules upon the Council's request (see also section 4.1 above). Thereby, the committees serve as organs of interpretation and clarification, provide ongoing definitions (e.g. on what "humanitarian circumstances" are) while deciding about single case decisions (Scharf/Dorosin 1993). In addition, the committees are empowered engage in selective 'self-regulation' to overcome issues associated with case-specific decision-making and thus to resolve decision-making blockades.

Committee rulemaking is associated with the same institutional constraints as Council rulemaking. If the Council is relieved of the interpretation task by transferring the task to the committee, however, the committee is under pressure to provide such authoritative interpretation, otherwise the individual UN member states would "interpret on their own" (Conlon 2000: 46, 1995a: 337, 1996b: 256). In case the committee engages in rule-making, the decision-making process is split into a sequence. In fact, any form of adopting decisions always requires the prior agreement on how decisions are to be taken at all. Therefore, rule-making separates the decision about single cases from the elaboration of the committee specific rules. First, the committee has to elaborate the generally applicable rule-set, which is later applied to

single cases. This transfers the committee into a logic of rule-making which subordinates committee members to the constraints usually associated with Council decision-making. In this context, not only formally accepted rules can guide decision-making behavior, but also deciding by precedent whenever a new type of issue emerges after which similar issues are decided following the precedent (see e.g. discussions in Iraq and Yugoslavia sanctions committee summary records, Conlon Papers, on file with author).

As such, Security Council members have incentives to defer meaningful decision-making authority to committee for clarification of its resolutions and evolving application. This results mainly from the differentiated nature of sanctions regimes that require granting a certain degree of discretion to the committee; otherwise the Council would have to take the all technical decisions itself. At the same time, effectively implementing complex sanctions regimes requires more detailed prescriptions and oversight than the Council is capable of delivering (Conlon 1995b: 650). While negotiating about the content of its sanctions regimes, Council members almost naturally takes a much broader perspective. Resolution drafters cannot feasibly consider all implications of compromise language or previously "agreed language" from earlier resolutions under changing circumstances. Council resolutions are adopted at a certain point in time and depending on the situation, and are decided under severe time constraints (Conlon 2000: 46), whereas implementing a sanctions regimes requires making small decisions on a continuous and routine basis. In addition, potentially divisive technical details are excluded from Council negotiations to achieve broadest possible support, where intentional ambiguity provides a tool for consensus building (Scharf/Dorosin 1993; Byers 2004). Thus, to reduce transaction costs, the Council transfers the clarification of technical details and operational definitions to the sanctions committees within the boundaries of Council resolutions (Scharf/Dorosin 1993: 812–813). Therefore, as a regulator, the committee relieves the Council from providing all too detailed substantive and procedural prescriptions without undermining its oversight function. While the committee gains a rulemaking function, such transfer of authority is not problematic for Council members as they have a veto position both in the Council and the committee (Scharf/Dorosin 1993: 813).

In practical terms, sanctions committees function as a secondary regulator through adopting its own formalized rules of procedure and by developing an informal decision-making practice (Conlon 1996a: 77). For the former, each sanctions committee adopts its own "guidelines of the committee for the conduct of its work", detailing committee working methods (Farrall 2007: 156; Sievers/Daws 2014) and giving procedural instructions to the committee secretariat (interview with UN member state official, New York, November 2013). Committee guidelines vary considerably in length and precision. For instance, the single page committee guidelines of the Iraq sanctions committee merely outline 10 short paragraphs, whereas the current committee guidelines of the Al-Qaida sanctions committee outlines 18 paragraphs with multiple subparagraphs on a total of 26 pages, detailing the sanctions provisions through specific substantive and procedural prescriptions. In some instances, the Council directs the committee to promulgate or amend its guidelines to adapt to new sanctions measures or to solve decision-making issues (Sievers/Daws 2014: 542–543). These directives highlight that the actors indeed perceive the Council and the committee as two distinct arenas within the same sanctions regime. While such a directive transfers contentious issues inherent to the adoption of rules applicable to a range of cases to the committee, it removes the option of non-regulation. Without performing the function of providing self-regulation, the density rules in the committee stage would be significantly lower (Gehring/Dörfler 2013: 573).

In conclusion, sanctions committees perform a decisive function for the Council, namely to bring meaning to its sanctions regimes by means of adopting implementation decisions. As a secondary role, sanctions committees adopt rules, either through adoption of committee guidelines or through decision practice, to overcome situations of diverging interests. In contrast to the Council, the decision situation within sanctions committee setting provides differing opportunity structures, not least since they decide by consensus.

4.3 The Panels of Experts as reflexive component

With the Panels of Experts (sometimes called Group of Experts, Monitoring Group or Team, or Committee of Experts), the governance system of sanctions regimes include a reflexive component (e.g. "reflexive arm", see Krisch 2004: 886) without formal decision powers. Traditionally, sanctions committees had the task to monitor sanctions implementation. However, for the Security Council and the committee staffed by diplomats and based in New York, it is impractical if not impossible to meaningfully monitor sanctions implementation in complex conflict settings. In addition, the diplomatic politics involved in Security Council affairs usually inhibit critical evaluation of the workings of sanctions regimes. As a result, to assess weaknesses of the sanctions mechanism in a particular case, to make recommendations for its improvement and to systematically identify sanctions violations (Krisch 2004: 886; Farrall 2009), the Security Council decided to create expert bodies for independent monitoring and information gathering on its behalf (Farrall 2009: 195). It is now a standard practice to establish a Panel of Experts whenever a new sanctions regime is imposed (dos Reis Stefanopoulos/Lopez 2012: 7; Farrall 2009: 194–195; Brzoska 2003: 524; Boucher/Holt 2009: 25–44). The Security Council individually establishes Panels of Experts as a subsidiary body in a resolution outlining its size, duration, location, and mandate (Farrall 2009: 196; Boucher/Holt 2009: 10; Farrall 2007: 163–164).

Panels of Experts vary considerable in their size (from two to 12 members), duration (from few weeks to years) and are usually located within the conflict region (except for the Al-Qaida, Iran and DPRK panels). The Panels are staffed with experts usually chosen for their competence in a required field or area. For instance, the Sudan Panel of Experts is comprised of five experts, including an aviation expert, an arms expert, an international humanitarian law expert, a regional expert and a financial expert who also serves as the Panel's coordinator (S/2014/206). The Secretariat proposes a list of suitable candidates picked from a Secretariat roster which is circulated among the respective sanctions committee under no-objection procedure. If one member objects, the respective individual is substituted until no more objections are received. Finally, the UN Secretary-General formally appoints

the individual experts on a consultancy basis (Farrall 2009: 203, 207; Carisch/Rickard-Martin 2011: 5).

Panels of Experts serve the function of an independent advisory body to the Council under the direction of the respective sanctions committee, but have no decision powers. In essence, such panels are “(…) organs with different and distinct mandates, of independent, expert and non-judiciary character, with no subpoena powers, whose primary role is to provide sanctions-related information to the relevant committees” (S/2006/997, para. 19). In essence, the transfer of tasks to such expert bodies partially outsources the primary responsibility of the UNSC to maintain international peace and security to private actors, in this case experts (Farrall 2009: 209). In each case, the Panels of Experts "(…) act essentially as the eyes and ears of the Security Council” (Carisch testimony 2009) in the particular conflict region.

Centrally, Panels of Experts monitor UN targeted sanctions regimes, provide information and evidence on sanctions non-compliance by targets and implementing member states, and make recommendations on ways to improve the effectiveness and implementation of the respective sanctions regime. First, expert bodies provide real-time information about their investigation of sanctions violations or other developments on the ground to the committee (e.g. ASSMT on Al-Qaida/Taliban or the SEMG on charcoal ban in Somalia) or assist committees in ongoing assignments such as providing information on the listing of individuals or updating the information on the committee’s consolidated list. In addition, Panels seek the cooperation from relevant member states. Second, usually the larger share of reporting is confined to mid-term briefings and especially a final report at the end of the Panel’s mandate. These reports elaborate findings relevant to sanctions regimes often detailing evidence collected while in the field, make recommendations on how to generally improve sanctions effectiveness, propose additional individuals or entities for listing (mostly in a confidential annex), recommends to establish, lift or modify certain sanctions measures or highlight other issues including transparency and information provision by the committee (Carisch/Rickard-Martin 2011: 5; Boucher/Holt 2009: 45–54; Farrall 2009).

Expert bodies are governed by the Security Council, the sanctions committee, the Secretariat (Farrall 2009: 202–203) and the expert body itself. First, the Security

Council serves as a regulator that establishes and defines the scope of the expert bodies mandate and the standards of evidence to be employed by the expert bodies. Panel of Experts' mandates vary considerably in their form and precision. For instance, the mandate of the Analytical Support and Sanctions Monitoring Team (ASSMT) assisting the Al-Qaida and Taliban committees, has 28 provisions on three pages (resolution 2083 (2012), Annex I), whereas the mandate of the Panel of Experts on Sudan has a mere three provisions (resolution 1591 (2005), para. 3b, as extended by subsequent resolutions). The Council has recognized the importance of providing more detailed mandates to Panels of Experts, and issue that was also part of the targeted sanctions reform initiatives (Biersteker et al. 2005: 27). To that effect, the Council can provide the expert bodies with requirements on the methodological standards to be employed. The Security Council has regularly governed Panel of Experts, which underlines that the Council had not anticipated the monitoring bodies to perform like they did (Farrall 2009: 201). In the final report of its Working Group on Sanctions, the Council acknowledged that the "working methods of expert groups have developed through a system of trial and error" (S/2006/997, para. 9). While it had accepted the importance of "common methodological standards" for the work of the expert panels, and in particular that expert bodies "(…) should rely on verified documents and, wherever possible, on first-hand, on-site observations by the experts themselves, including photographs" (S/2006/997, para. 22), the Council has not yet provided formal guidance on general standards of evidence.

Second, the sanctions committees govern expert bodies. The respective sanctions committee decides about appointing the individual experts, is regularly briefed by the expert bodies and receives and discusses the final reports. Therefore, the committees more frequently deal with the expert bodies than the Council and ensure the day-to-day governance (Farrall 2009: 202). Upon receiving the reports detailing their activities, findings and recommendations (Boucher/Holt 2009: 45) and after a briefing by the Panel followed by a committee discussion, the committee usually adopts the report and refers it to the Council at which time it will become a public document (except for confidential annexes). The committee can take action on the report's findings by adopting case-specific decisions itself or by recommending amendments to the sanctions regime to the Council (Farrall 2009: 203).

Third, the UN Secretariat's Sanctions Branch fulfills a governance function (Farrall 2009: 202–203), however, mostly of an administrative character such as assisting in travel and visa arrangements. On the substantive level, the Sanctions Branch provides an initial training and advice on how to interact with the respective committee. Sometimes the Sanctions Branch contributes to background research, report-writing and field work (Boucher/Holt 2009: 56–59, 2007: 3).

Fourth, the expert bodies govern themselves within the scope of their mandate. A Panel of Experts has – as a Council subsidiary body – wide discretion as how to organize its own work within the limits given by the Council's mandate. All Panels of Experts share the requirement to submit regular written reports including a final report with recommendations to the Council through the committee. As such, the expert bodies are independent in the sense that they are solely responsible for the content of their reports (Carisch/Rickard-Martin 2011: 5). Although the Panel as a collective actor is independent in its own reporting, the individual members have to agree on the substance and wording of the reports and which standards of evidence should be employed. In case there are diverging opinions, the Panel has to develop a mechanism to aggregate diverging opinions into a final written report. Panels have adopted different mechanisms of preference aggregation, including applying tighter standards of evidence, package deals, majority voting or simply noting a dissenting member's opinion in reports. The coordinator serves as the official contact for the committee, coordinates the work of the group and signs off official correspondence (Farrall 2009: 203; Boucher/Holt 2009: 61–62).

The reporting function of expert bodies creates a specific decision situation for committee members when they have a general interest in the functioning of the sanctions regime, but have situation-specific interests and thus create incentives to impede a report's publication. The ability of committee members to block or delay expert body reports including individually unfavorable findings first and foremost depends on the procedure employed, which varies across sanctions regimes. While most committees indirectly receive the report and transmit it to the Council (which requires a consensus decision), some expert bodies are mandated to submit the report directly to the Council (Security Council Report 2013: 8). For the former, as a result, committee members have a 'take-it-or-leave-it' option. For the latter, the committee is

no longer competent to decide about its publication. For instance, the Council recently changed the procedure for submission of the DRC expert body report requesting it to "submit to the Council its final report upon termination of the Group's mandate" (S/2014/2136, para. 5), presumably to prevent blocking of reports by the committee member and conflict party Rwanda (see section 7.3).

For committee members, there are theoretically two ways to challenge the content of expert panel reports. First, committee members can challenge a finding on the basis of standards of evidence. In particular, the question of what standards of evidence are acceptable has raised contentious debates in committees about the contents of filed expert reports. To avoid such a challenge, the Panel of Experts can apply stricter standards of evidence and methodology in selecting the presented evidence. In practice, there is a large grey area of sources that could possibly be used ranging from forensic evidence to hear-say reports. Using strict standards of evidence, selecting evidence that is fact-based rather than unsupported assertions, the usage of multiple sources to substantiate a claim, as well as inviting relevant parties to present disconfirming evidence will decrease opportunities to block a report. Second, committee members can challenge a particular finding if they can argue that the panel of experts overstepped the scope of its mandate. The more vaguely formulated the mandate is, the wider is a committee member's discretion (interview with UN sanctions expert, Washington DC, December 2013). In the Sudan sanctions regime, the mandate is vaguely formulated and in terms of substance merely requests the panel "(…) to assist the Committee in monitoring implementation of the [arms embargo, travel ban, assets freeze] (…), and to make recommendations to the Committee on actions the Council may want to consider" (resolution 1591 (2005), para. 3b). Accordingly, recommendations can be easily rejected arguing that the expert body has over-stretched its mandate.

Finally, in the interaction between the Council, the committee and the expert body, certain mediating factors are at work. If committee members seek to control the expert body's work and final report's content by lobbying the Secretariat to put their "own" nationals to the list of candidates, often involving horse-trading between committee members (Security Council Report 2013: 6–7) in politically contentious sanctions regimes, they introduce an element of bargaining into the panel's

information gathering process. Usually, governments susceptible towards controlling one expert, pick a career diplomat or ministerial official to ensure loyalty. However, even if individual experts succeed in deleting unfavorable content for their government, the logic of bargaining does not allow them to eliminate all unfavorable content, in particular if the investigated cases are bolstered with facts and are clearly documented. Moreover, the expert body has an incentive not to overstretch its mandate as the Council can always dissolve the expert body and has incentives to submit recommendations bolstered with sufficient evidence that have some chance of succeeding. On the same side, the Council and the committee cannot discard all expert body findings and recommendations if the Council as a collective has mandated the expert body for a particular task and does not want to undermine the sanctions regime as a whole.

Concluding, the Panels of Experts complement UNSC sanctions regimes with a purely advisory body without decision competencies. In essence, the expert bodies provide information and recommendations the panel deems essential for strengthening the respective sanctions regime. While the committee retains the decision competence on any panel recommendation, including listing proposals, there are incentives to accept well-reasoned recommendations.

4.4 The UN Secretariat's "Sanctions Branch" as administrative component

The Secretariat's Subsidiary Organs Branch (often referred to as "Sanction's Branch") is the body within the governance system mainly tasked with providing administrative support to the committee, however, it does not have any formal decision functions and at best serves an agenda setting role. The Sanction's Branch is situated in the Security Council Affairs Division (SCAD) within the Department of Political Affairs (Cortright et al. 2010: 22–23; Carisch/Rickard-Martin 2011). The Secretariat created the Sanctions Branch as a separate entity in 1992 after the imposition of sanctions on Iraq and Yugoslavia significantly increased the workload (Conlon 2000: 36–37). As the number of sanctions committees grew, the number of servicing staff grew considerably from 18 in 1993 (internal Secretariat document,

Conlon Papers), to 33 professional and general service staff (internal Secretariat document, as of October 2013).

The main function of the Secretariat is to service the committee through meeting organization and document distribution. The Secretariat staff, in cooperation with the Chairman, prepares and drafts the meeting documents such as the provisional agenda, the Notes for the Chair (i.e. a script used by the Chairman during formal and informal sessions to guide the committee though the adopted agenda), as well as other documents relevant for a committee's work. Each committee is served by a Committee Secretary, the main contact point for committee members and non-Council member states, and the respective regime-specific Panel of Experts. Each Secretary is assigned to another sanctions committee as back-up. Besides the Secretary, each committee is serviced by a team of additional staff (Carisch/Rickard-Martin 2011: 5), usually three, but up to six as during the labor-intensive Yugoslavia sanctions committee (internal Secretariat document, Conlon Papers). As Chairing a sanctions committee is quite labor-intensive, the Chairing delegation and the committee Secretary usually work closely together (Boucher/Holt 2009: 58). In addition, the Secretariat maintains the 'Committee eRooms', where documents, for instance, incoming correspondence (Communications) and outgoing correspondence (Notes), are electronically stored for committee members.

On occasional basis, the Secretariat performs tasks including circulating incoming communications or decision proposals. In addition, the Secretariat usually engages in drafting the sanctions committee's annual reports. Depending on the committee's workload and the chairing delegation's capacities, sometimes Secretaries draft complete annual reports on their own. Concerning the committee guidelines, the Secretariat, in cooperation with the Chairman, provides a draft version, usually based on committee guidelines from other committees familiar to the Secretary. On a yearly basis, the Secretariat briefs the incoming E10 delegations on the work of the sanctions committees and provides assistance to incoming chairing delegations. Concerning the Panel of Experts, the Secretariat maintains a roster of experts and proposes a groups composition to the committee for approval. Once a Panel of Experts is established, the Secretariat briefs incoming panel members and supports the panel's work concerning administrative matters, travel arrangements and communication with the

committee. In some instances, Secretariat staff provides substantive support in terms of research, report-writing or accompanying the Panel of Experts on country-visits (Boucher/Holt 2009: 56–58).

More generally, the Sanction's Branch has the function of providing the sanctions regimes' institutional memory (Boucher/Holt 2009: 58). As such, the SCAD maintains databases on sanctions provisions and mandates for sanctions bodies as well as the Panel of Experts work. For instance, the Secretariat maintains a database on the Panel of Experts recommendations included in their final reports to provide for a smooth transition in case Panels of Experts have a different composition after a mandate renewal (Cortright et al. 2010: 12; Carisch/Rickard-Martin 2011: 5). In addition, the Secretariat archives records of communications, decisions and other relevant committee documents.

Although some former Secretariat members ascribe an influential role to the Secretariat highlighting the Branch's importance for the continuity of sanctions regimes, its decision powers are severely limited (Carisch/Rickard-Martin 2011: 5; Conlon 2000: 18–21, 28, for instance, Farrall 2007 does not even mention the role of the Secretariat). Concerning the drafting of documents such as committee guidelines or committee annual reports, the Secretariat at best has an agenda setting role, while the sanctions committee takes formal decisions. The degree of Secretariat discretion depends on the Council and committee guidance. Through resolutions and committee guidelines, the tasks of committee secretaries, for instance, in how to handle arms embargo exemption requests, are procedurally directed. However, in absence of a substantive administrative law that could guide the Secretariats work, there are "constant arguments and doubts about what to do" (Conlon 2000: 19). The Secretariat could potentially use this discretion to change informal practice of committee conduct. For instance, within the Iraq sanctions regime the Secretariat decided to supply "status of communications" lists summarizing exemption requests. However, while this introduced standardization and a slight change in procedure, individual committee members could have simply objected. While the Secretariat theoretically provides an institutional memory, because there are fewer turnovers in personnel in the Secretariat than in permanent missions, organizational decisions in very few instances require institutional memory. In addition, the proactive permanent members

maintain their own archives and documentation systems (interview with UN Secretariat member, New York, March 2012). Concerning selecting suitable Panel of Expert members, the Secretariat sets the agenda, while the committee adopts formal decisions. As such, the Secretariat has an interest in selecting qualified members with distinct expertise to avoid objections from Council members (Farrall 2009: 207).

In summary, even though the UN Secretariat provides administrative and in instances substantive support, it is bereft of any meaningful decision functions to the favor of the sanctions committee (Conlon 2000: 28). As a result, the Secretariat mainly serves the role of a supporting subsidiary organ within UNSC sanctions regimes.

4.5 The Focal Point and the Office of the Ombudsperson as review mechanisms

The governance system of sanctions regimes is complemented with a review mechanism as part of the de-listing procedure, however, only the Al-Qaida sanctions committee review mechanism has remarkably far-reaching decision powers. The Security Council created the 'Focal Point for Delisting' (resolution 1730 (2006)) in 2006, and the 'Office of the Ombudsperson' (resolution 1904 (2009)) specifically tailored to the Al-Qaida/Taliban sanctions regime in 2009. The review mechanism enabled to two new types of actors to access the sanctions regimes. First, listed individuals and entities as private complainants could directly petition the committee and trigger a committee procedure to review if the petitioner's continued listing is still justified. Second, the Council established an institutionalized actors within the UN Secretariat to receive and process review petitions (Biersteker/Eckert 2009: 12–14; Kanetake 2008: 161–162; Sievers/Daws 2014: 542–544).

Initially, the de-listing procedure of sanctions regimes was highly restrictive and entirely intergovernmental. In the beginning, sanctions regimes applying targeted sanctions including the Al-Qaida/Taliban regime did not provide any de-listing procedure. Later, to process first delisting petitions, sanctions regimes subsequently introduced purely intergovernmental de-listing procedures (Cramér 2003: 90–95;

Kanetake 2008: 157–158). According to these, delisting could be triggered by a listed individual exclusively through the state of nationality and/or residence. While any state can submit a de-listing request in any of the sanctions regimes, this procedure is highly problematic as an individual required the support of a state. Thus, the operation of the de-listing procedure depended on the sincerity of these states to forward individual petitions to the committee. However, a petitioned state might not be willing to support a specific de-listing request, be it for political reasons, insufficient capacity or lacking interest. Ultimately, this would deny access to the review process for listed individuals and entities. Because complaints might not have been forwarded due to lacking support by petitioned governments, it is unclear how many individuals and entities have unsuccessfully sought to initiate delisting (Biersteker/Eckert 2006: 2, 36).

To remedy the issue of access, primarily related to the Al-Qaida/Taliban regime, the purely intergovernmental de-listing procedure was complemented by allowing listed individuals and entities to petition their listing via the central 'Focal Point for De-listing' within the UN Secretariat (resolution 1730 (2006)). This development is remarkable as it provides an avenue to file an individual complaint about one's own listing without requiring support of a UN member state. Hence, individuals and entities could directly access the respective sanctions committee, even if their state of nationality of residency objected to such a request. Beside its function as a registrar of pending petitions, the focal point informs sanctions committees about incoming petitions, forwards them to relevant states such as designating states and states of nationality/residency and informs the petitioner about the applicable procedures, the status of the case and the final decision. Its function focuses on administrating de-listing requests (and exemption requests for the Al-Qaida sanctions regime, resolution 2083 (2012)) exclusively (Biersteker/Eckert 2009: 12–13; Security Council Report 2013: 8). The Focal Point relieves the Council of administrative and routine tasks with the investment of very little resources (Biersteker/Eckert 2006: 40–41). The Focal Point is currently served by one staff member within the Sanctions Branch (internal Secretariat document, as of December 2013; Security Council Report 2013: 8).

Nonetheless, the powers of the Focal Point are severely limited so that the Focal Point does not have any formal and independent decision-making authority, following the permanent members preferences for a process that would not restrict committee prerogatives, limit the number of states involved, in essence, for working as a mere "mailbox" (US Embassy Paris 2006b; Comras 2010: 100–101, see section 6.2.3). In as much the initiation phase of the de-listing procedure has dramatically changed, the subsequent decision procedure was only slightly modified. To be considered by the respective committee, a petition still requires a formal de-listing request by the petitioned state, the designating state, the state of nationality/residency or any other committee member. Ultimately, this preserves the intergovernmental de-listing procedure, because the committee decides about the de-listing request by consensus. In addition, the committee as collective actor does not have to provide reasons for its decision, neither to the public nor to the petitioner, which does not increase incentives for the committee members to adopt reasoned decisions. However, it merely assures that the committee automatically considers the delisting petition and that petitioners are informed about the decision (Kanetake 2008: 161–164; Rosand 2010: 259; Comras 2010: 100–101).

After its establishment in late 2006, the Focal Point procedure remained unchanged and decision-making issues, resulting from its operation have not been dealt with by the Council. For instance, the Council does not prescribe time frames for the consideration of individual petitions and thus some requests might remain under consideration indefinitely (Briefing to incoming delegations, December 2013). Even at its establishment the Focal Point was met with disappointment from states that had favored a stronger review mechanism (statements by Switzerland, Austria, S/PV. 5446, 30 May 2006; Kanetake 2008: 161–164).

Since its creation in 2006, the Focal Point has received de-listing requests from 57 individuals and 38 entities in total (see Table 5). With a success rate of about 35 percent, 16 individuals and 17 entities were de-listed and 34 individuals and 19 entities de-listing requests were denied, with the remaining petitions pending or decided while the focal point procedure was still ongoing. There are significant differences between the sanctions regimes in terms of how individuals use the procedure. Most of the delisting requests have been made to the Al-Qaida/Taliban and

Liberia committees together combining about 75 percent of requests, while other committees with substantial lists, for instance Iran or Taliban, have not yielded many requests.

Table 5: UN Focal Point for Delisting Statistics

Sanctions Regime	Requests	De-listing	Ongoing listing	Success Rate
Somalia/Eritrea	1 individual		1 individual	0.00
Al-Qaida/Taliban (as of 2009)	18 individuals 22 entities	3 individuals 17 entities	13 individuals 3 entities	0.50
Iraq	3 individuals 1 entity	2 individuals	1 individual 1 entity	0.50
Liberia	23 individuals 9 entities	11 individuals	9 individuals 9 entities	0.34
DRC	8 individuals 4 entities	1 individual	7 individuals 4 entities	0.09
Cote d'Ivoire	2 individuals		1 individual	0.00
Iran	2 entities		2 entities	0.00
Libya	2 individual		2 individual	0.00
Taliban (as of 2011)*	3 individuals		2 individuals	0.00
Central African Republic	1 individual		1 individual	0.00
Total	**61 individuals** **38 entities**	**17 individuals** **17 entities**	**37 individuals** **19 entities**	**0.35**

Note: Author's illustration. Data as of 29 April 2016. (*) one individual was delisted while Focal Point process was ongoing. For Focal Point statistics see http://www.un.org/sc/committees/dfp.shtml; see also Eckert/Biersteker 2012: 12–13.

For the Al-Qaida regime specifically, the relevance of the individual complaints mechanism was strengthened through the creation of the Office of the Ombudsperson as an independent and impartial entity mandated to review delisting petitions (resolution 1904 (2009)). The Ombudsperson was entitled to interact with the petitioner and to collect information from relevant actors involved judging whether there is sufficient evidence for upholding the listing. To that effect, the Ombudsperson provided a 'comprehensive report' to the Al-Qaida/Taliban committee reviewing the case. However, the Ombudsperson did not have the right to make formal recommendations and her assessment did not have any direct consequences. Nevertheless, the Ombudsperson had a potentially powerful agenda-setting function (Eckert/Biersteker 2012: 14–25; Prost 2012a; Prost/Wilmshurst 2013).

In 2011, the role of the Ombudsperson within the procedure was dramatically enhanced (resolution 1989 (2011)). Henceforth, the Ombudsperson is not only empowered to make formal recommendations. Strikingly, if the Ombudsperson requests a de-listing, the individual or entity is de-listed after 60 days unless the committee decides by consensus to uphold the listing or unless one member state takes the matter to the Security Council (resolution 1989 (2011), Annex II, para. 12). This procedural change significantly enhances the agenda-setting power of the Ombudsperson and alters the decision-making rationale for committee members. A formal recommendation of the Ombudsperson will be difficult to overrule as the committee has to achieve consensus in maintaining the listing. A designating state intending to retain a listing despite an Ombudsperson de-listing recommendation would have to convince all other committee members of the rightfulness of overturning the Ombudspersons decision in light of existing decision criteria. As a consequence, provided that the recommendation of the Ombudsperson is convincing, the procedure implicitly shifts the burden of proof to the designating states. Moreover, the committee decision is communicated to the petitioner via the Ombudsperson and it has to include a statement setting out the potential reasons for an objection (guidelines November 2011, Annex II, para. 13), which increases the hurdles to retain a listing in face of a de-listing recommendation (Eckert/Biersteker 2012: 14–25; Prost 2012a; Prost/Wilmshurst 2013).

To summarize, the UNSC complemented its sanctions regimes with a UN Secretariat Focal Point to review petitions of targeted individuals and entities, however, without decision function, while further strengthening the mechanism for the Al-Qaida/Taliban sanctions regime through the creation of the Office of the Ombudsperson. Both have in common that listed individuals and entities can now directly access the respective sanctions committee to have their listings reviewed, however, they differ in the extent to which the UNSC has assigned decision functions. Remarkably, while the Focal Point has no decision functions, the Ombudsperson has been granted extensive agenda setting power which decrease the prospects for overturning a delisting recommendation.

4.6 The dynamic institutionalized structure of Security Council sanctions regimes

The increasingly complex governance structure of UNSC sanctions regimes requires the regular adaptation of the decision-making apparatus to identify sources of decision-making issues. The UNSC and the sanctions committee, by means of adopting rules and decision criteria, have a meaningful mechanism for guiding decision-making in a system of divided labor without depriving individual bodies of a degree of autonomy to adopt political decisions.

The development of UNSC sanctions regimes does not follow an envisioned, comprehensive institutional design, but rather occur in a step-wise fashion (Conlon 1995b: 635; Biersteker/Eckert 2009: 12). Because negotiating Security Council resolutions is a resourceful and time-consuming endeavor, each substantive and procedural change within sanctions regimes is sparked by a specific issue, either resulting from case-specific decision-making or more general political developments, such as ineffective implementation by UN member states resulting from the decision-making practice of the sanctions committees. Furthermore, negotiating parties cannot reasonably envision all future unintended consequence (Scharf/Dorosin 1993). As such, the Security Council remains a political body and resolutions mirror the political dynamics at the adoption of a resolution. As a consequence, major decisions taken with the adoption of a resolutions therefore are more stable and rigid in nature, because they require extensive negotiations to amend them (Doxey 2000: 10–11).

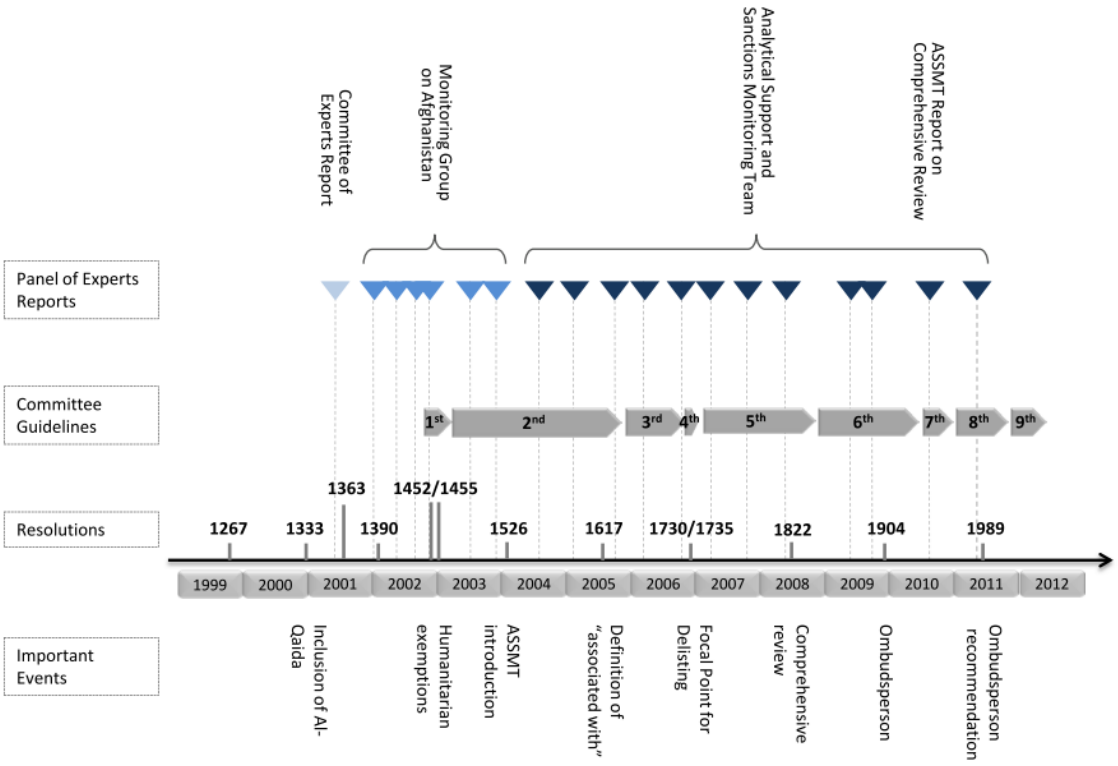
Two major factors potentially trigger more specific governance of sanctions regimes. First, the Council may engage in providing authoritative interpretation of its own resolutions as a means to overcome regulatory issues or decision-making blockades associated with case-specific decision-making within a sanctions committee. For instance, resolution 1617 (2005) clarified the substantive decision criterion of a potential listing being “associated with” Al-Qaida to improve the quality of the listing process. In such a way, the Council can also formalize informally developed committee decision practice. Second, the Council can react to unintended consequences or changes in the environment. In fact, sanctions regimes are complex adventures and sanctions subjects or other intentionally behaving actors may adapt their behavior thus leading to unintended consequences (Conlon 1995b: 659). In

addition, external events, such as the emergence of new conflict actors, may trigger modifications in the governance of sanctions regimes.

As such, the Security Council adjusts its sanctions regimes in a reactive, episode-like manner with regularly re-occurring windows of opportunity. Thereby, to lower transaction costs, single decision-making issues are accumulated until the Council performs a review of the sanctions regime and deals with such issues in a package resolution. The Council intentionally provides such windows of opportunity through establishing sunset clauses to sanctions measures or subsidiary organs. Periodic renewal of sanctions regimes or particular subsidiary bodies enables the Council to provide procedural or substantive decision criteria to overcome decisional blockades, to redefine the scope and mandate of subsidiary bodies or to partially or completely dissolve the sanctions regime and its sanctions bodies. In addition, Panel of Experts reports containing recommendations to the Council on how to improve the sanctions regime in question, usually coinciding with the need for a mandate extension for the expert body, provide an opportunity for Council governance (Farrall 2009: 203).

As a consequence, sanctions regimes, such as the Al-Qaida/Taliban sanctions regime depicted in Figure 3, usually develop with noticeable periodicity. In this example, the sanctions regime has been revamped every 12 to 18 months, with ad hoc governance on significant occasions when immediate action was required, for instance, when resolution 1363 (2001) established a permanent monitoring body. One can also observe that the committee has a significant role in performing a rule-setting function. In fact, to reduce transaction costs for Council decision-making, it may transfer potentially contentious issues to the committee which may result in significant time-lags in implementing changing Council regulation into committee procedures under consensus decision-making. The committee usually does not have to deal with mandate renewals and has thus less time-pressure to adopt a decision. In addition, the committee guidelines are less visible and gain less public attention.

Figure 3: The Episodic Development of the Al-Qaida/Taliban Sanctions Regime



Note: Author's illustration.

Over time, the Council and its committees have dramatically increased the regulatory density within the sanctions regimes (Farrall 2009: 193; Carisch/Rickard-Martin 2011: 4) to overcome disturbances in its case-specific decision-making. While the Council usually starts with a more flexible approach to lower transaction costs and increase the discretion of committee members to adopt political decisions, consensus requirement in the committee sparks decision-making problems associated with case-specific decision-making that require Council guidance. This is particularly obvious in sanctions regimes that are faced with a high number of decision requests that cannot meaningfully be processed under unregulated committee decision-making. For instance, within the Al-Qaida/Taliban sanctions regime (see Table 6), the committee has revised its committee guidelines nine times. During these revisions, the guidelines grew significantly in length. While this does not automatically signify higher regulatory density, it gives a good indication about the procedural enhancements that were made by this particular sanctions committee. Nevertheless, as there is different need for regulation, there are significant differences between the committees in regulatory density. Some committees including the 1518 Iraq sanctions committee or

the 1636 Lebanon committee never faced significant numbers of decisional requests and thus little pressure for regulation.

Table 6: Length of Al-Qaida/Taliban Sanctions Committee Guidelines

Committee Guidelines	Date	Number of pages	Word Count
1	07 November 2002	5	1,652
2	10 April 2003	7	2,434
3	21 December 2005	9	2,794
4	29 November 2006	10	3,536
5	12 February 2007	12	4,855
6	9 December 2008	16	6,881
7	22 July 2010	21	9,799
8	26 January 2011	21	9,950
9	30 November 2011	24	10,728
10	15 April 2013	26	11,917

Note: Author's illustration. Calculations done by author based on versions of committee guidelines. All guidelines referenced are on file with author.

In concluding, UNSC sanctions regimes resemble a political organization that evolves in a step-wise manner in reaction to emerging governance issues either resulting from decision-making issues or sparked by lacking goal attainment. Since in particular the permanent members are skeptical towards regulation limiting their discretion and Council negotiations are costly, the Council and alongside its sanctions committee reactively solve decision-making issues by amending substantive and procedural criteria.

4.7 Chapter summary

The UNSC's increasing resort to sanctions has created governance structures that split an initially uniform decision process into sanctions regimes that allocate specific functions among its subsidiary organs, in particular between the Council, the sanctions committee and the expert body. Each subsidiary organ performs a distinct function, has a specific composition and operates under certain procedures. Within their mandates, decision-makers in each body face different types of decisions and thus different institutional constraints. As a result of the complex structure of

sanctions regimes, the effective functioning of the governance system creates demand for integrating the subsidiary bodies through rules or decision practice.

The members of the Security Council as the formally hierarchical body can either choose to adopt implementation decisions on their own or it can establish a sanctions regime, transfer decision competencies to its subsidiary organs and guide those through the provision of rules. In the former case, Council members can pack a number of implementation decisions into a decision package in a formal resolution. In the latter case, Council members merely deal with much broader political questions, naturally because single implementation decisions are no longer decided on this level and are bereft of the possibility to adopt decision packages. Rather, when the Council transfers case-specific decisions to the committee, it focusses its role as a rulemaker directing the sanctions committee through the adoption of resolutions. While Council members have preferred a uniform Council decision process in few sanctions regimes, mostly they have preferred establishing a sanctions committee.

Altogether, the decision situation within sanctions committee as an implementing agent is entirely different from those of the Council. When the Council decides to delegate decisions, the sanctions committees, which mirror Council membership and decide by consensus, in turn, are tasked with taking the rather technical single-case implementation decisions such as listing and delisting of individuals or granting exemptions from trade embargoes. Accordingly, committee members decide about small decisions that are narrowly confined to the specific conflict at hand. At the same time, the Council often charges the committee to adopt these decisions in light of Council provided criteria. As secondary role, to overcome situations of diverging interests, sanctions committees adopt rules through committee guidelines or decision practice. In that respect, committees serve as secondary rulemaker and implicitly separate rulemaking from rule-application.

The Council complements sanctions regimes with Panel of Experts as a reflexive component that review committee activities, monitor member states implementation and provide information for the sanctions committees' operations. Even though these expert bodies do not have distinct decision functions, their means of influence rests upon expertise that the Council and the committee themselves cannot create. Experts then have the interest in providing well-reasoned recommendations and fact-based

information because they have to convince committee members of the viability of a particular recommendation. Nonetheless, when Council and committee members have a general interest in the functionality of the sanctions regime, they cannot simply ignore all substantive recommendations over the long run and gain an interest in providing meaningful guidance as how to produce well-drafted reports.

Additionally, sanctions regimes have three additional entities. Sanctions committees are supported in their day-to-day activities by the UN Secretariat Sanctions Branch, which serves mainly as administrative component and does not have an independent decision function. Finally, the UNSC added the Focal Point for Delisting as a review mechanism for the processing of delisting petitions, which functions as a mere communication device between petitioners and the respective sanctions committee and is bereft of any decision function. Exceptionally, the Al-Qaida/Taliban sanctions regime is complemented with the Office of the Ombudsperson that initially served an agenda-setting function and since 2011 has the competence to submit delisting recommendations that the committee can only overturn by consensus.

Lastly, UNSC sanctions regimes develop with an astounding periodicity. This is mainly founded in the fact that elaborating rules is costly so that actors prefer to create a sanctions regime with the least regulatory density needed to get a sanctions regime operational and then later providing substantive and procedural criteria as necessary.

5 The Iraq Sanctions Committee – Regulating Comprehensive Sanctions

On 6 August 1990, in response to the invasion of Kuwait by Iraqi forces four days earlier, the Security Council imposed a comprehensive ban on all trade with Iraq and created a sanctions committee to oversee the sanctions regime. Although the Security Council had established sanctions against Southern Rhodesia and South Africa during the Cold War, the Iraq sanctions marked a drastic shift in the willingness of the Council to use its wide-ranging powers to coerce Iraq into compliance with the Council's demands. Without a sunset clause, the sanctions regime was upheld until 2003 even though Saddam's troops were forced out of Kuwait by military intervention in 1991. Administrating and monitoring a comprehensive trade embargo on an entire state is an extremely challenging endeavor as it requires the continuous adoption of a multitude of small regulatory decisions. The bulk of the Iraq sanctions committee's work was to grant exemptions from the comprehensive ban on all trade, which meant a considerable workload for the sanctions committee (Conlon 1996a: 82). Subsidiary committee functions included evaluating state implementation reports, monitoring sanctions implementation and dealing with member states' requests for economic assistance arising from the comprehensive sanctions ('Article 50' requests).

Although the Iraq sanctions regime is considerably differentiated, the effects of committee governance on the committee's work have not been acknowledged, mainly due to the identical Council and committee membership. Most studies paid little attention to the work of the committee and rather focused on Council decisions (Manusama 2006: 130–151; Bosco 2009: 155–166), the general sanctions policy (Malone 2006: 115–151; Bennis 1996) and sanctions effectiveness (Cortright/Lopez 2000: 37–61; Elliott/Uimonen 1993; Hakimdavar 2014). The severe humanitarian consequences of UNSC sanctions policy attributed to the comprehensive sanctions imposing extreme hardships on the general Iraqi population, in particular on the most vulnerable groups sparked vocal criticism ('invisible war', Gordon 2010; 'sanctions of mass destruction', Mueller/Mueller 1999; 'starvation as a weapon', Provost 1992; Weiss et al. 1997; Duffy 2000; Reisman/Stevick 1998; Sponeck 2006). The scandal

surfacing around the ill-administrated Oil-for-Food Program (Califano/Meyer 2006), further contributed to earn the Iraq committee the title "[t]he Council's most famed sanctions committee" (Malone 2008: 124). The effects have triggered the debate about how "smart(er) sanctions" should replace comprehensive sanctions (Brzoska 2003; Oette 2002; Craven 2002; Biersteker et al. 2005; Cortright/Lopez 2002). However, there are a number of accounts of former Iraq committee members (van Walsum 2004; Kaul 1996; Koskenniemi 1991), observers (Malone 2006), UN practitioners (Conlon 2000, 1995b, 1996b; Sponeck 2000, 2002, 2006; Fleischhauer 1991) that provide detailed historical descriptions and suggest that effects of differentiation might exist although they do not provide systematic accounts. For instance, Sponeck describes the function of the Iraq sanctions committee as a "micro-manager of bureaucratic detail" (2006: 273).

In this chapter, I empirically analyze the consequences of committee governance for its decision-making and the content of decisions within the Iraq sanctions regime from 1990 to 1995. The aim is to study whether the causal mechanism is present and actually leads to rule-based decision-making in this case. The Iraq sanctions regime is evaluated with a view to its major decision functions, mainly granting humanitarian exemptions to comprehensive and aviation sanctions. In the early phase, a committee blockade on foodstuffs shipments prompts Council rulemaking and committee precedents that subsequently guided decision-making in similar cases later despite resistance by powerful members. After the Gulf War, the committee re-regulated its decision-making and over time developed a relatively consistent practice on humanitarian exemptions along item categories as primary, as well as end-use and quantities as secondary criteria even though this was not intended by powerful members. The systematic analysis of 8,200 humanitarian exemptions decisions shows that the committee predominantly decided rule-based. On aviation sanctions, the committee developed an expanding and consistent decision practice on flight exemptions that empowered weak states to file successful rule-conforming requests despite great power objections.

The Iraq sanctions regime enriches the analysis with a comparative perspective to avoid unjustified generalizations derived from the analysis of targeted sanctions regimes. The case is suited to study, if comparable effects emerge even in the absence

of the problems specifically associated with the infringement of fundamental rights of individuals that are inherently associated with targeted sanctions. Although the Iraq sanctions regime follows the logic of comprehensive sanctions and was strongly criticized for its humanitarian consequences, it is not a special case from the perspective of functional differentiation. Similar to other sanctions regimes, it constitutes an instance of considerable delegation to a sanctions committee. In fact, its decision-making apparatus faced similar decision problems as other sanctions regimes with detailed implementation decisions. Hence, it provides a historical test case in which the postulated dynamics should be equally observable. The focus on the early phase of the Iraq sanctions committee from 1990 to 1995 is particularly promising as it focusses on the era where no other organizational differentiation such as the UN oil overseers, the Oil-for-Food Program or the UN Compensation Commission had an independent influence on decision-making.

The good documentation of the Iraq sanctions committee proceedings provides an exceptional – however, little used (notable exceptions are Hakimdavar 2014; Conlon 2000) – insight into its decision-making practice. The present analysis is based on the publicly available *Paul Conlon United Nations Sanctions Papers* donated to the Special Collections Department of the University of Iowa by Paul Conlon, a former member of the UN Secretariat servicing the Iraq sanctions committee. The documentation includes detailed and systematic records of all 120 committee meetings of the Iraq sanctions committee from August 1990 to February 1995, including agenda items, summary records of the meetings (i.e. meting protocol with all verbal interventions, abbreviated as 'SR.x'), databases of incoming communications and personal notes on committee proceedings. The Sanctions Papers documentation of "status of communications" list has been used to produce the *Iraq Sanctions Committee Decisions Dataset* of almost 8,200 single-case committee decisions on humanitarian exemptions from 1993 to 1995.

This chapter will proceed in the following analytical steps. In the first section, the case study assesses the distribution of interests of among UNSC members and evaluates the driving actors behind the sanctions regime, and hence if and how we would expect the mechanism to function accordingly. In the second section, the case study traces theoretically-relevant case episodes concerning the major functions of the

sanctions regime: the issues of committee governance associated with foodstuff's shipments, the granting of humanitarian exemptions on medicines, foodstuffs and other items of humanitarian character, as well as granting exemptions to the aviation embargo on Iraq. The final section concludes with a summary of major findings.

5.1 The origins of the Iraq sanctions regime

In reaction to Iraq's gross violation of international law by invading and annexing Kuwait, on 6 August 1990, with 13 votes in favor and two abstentions (Cuba and Yemen), the UNSC imposed a comprehensive ban on all imports from Iraq and Kuwait (resolution 661 (1990), para. 3a,b), exports to Iraq and Kuwait (para. 3c), and a complete financial embargo (para. 4). The embargo was further strengthened by many subsequent resolutions imposing a naval blockade (resolution 665 (1990)), aviation sanctions (resolution 670 (1990)), a military intervention (resolution 678 (1990)) and finally upholding the embargo even after the original goal was achieved (resolution 687 (1991)).

The members of the Iraq sanctions committee were confronted with a significantly different decision situation than in the UNSC. Committee members were tasked to process numerous small-scale implementation decisions under the constraints of UNSC resolutions through interpreting incoming decision requests by UN member states in light of existing UNSC resolutions (Gordon 2010: 23-24, 61; Conlon 2000: 45-46, 59–60, also UK, SR.76). In addition, these requests included a very broad range of items. David Bosco nicely summarizes the committee decision-making situation: "Medicines clearly fell outside the sanctions regime. But what about books, clothes, construction materials, and agricultural equipment? And how should the council respond to requests for sanctions exemptions from states heavily dependent on Iraqi oil? Case by case, the sanctions committee struggled to manage the mechanics and politics of the economic isolation it was imposing on Iraq" (Bosco 2009: 164, similarly Conlon 2000: 45).

The Iraq sanctions committee was confronted with a constellation of strongly diverging interests, which constantly presented a serious danger of decision blockade (Graham-Brown 1999: 71; Koskenniemi 1991: 126–127; Conlon 2000). The

committee mainly consisted of three, more or less homogenous, groups. First, the 'sanctions enforcers', which included the US and the UK, supported by France in the beginning, and later sometimes by Germany and Japan were one extreme pole (Graham-Brown 1999: 72). These actors strictly sought to prevent any weakening of the sanctions regime and were highly restrictive in granting exemptions to enforce Iraqi compliance. Their stance towards sanctions has not been fundamentally altered (Gordon 2010: 2-4,11,17,104), although over time their ultimate sanctions policy goal might have transformed slightly from regime change (Johnstone 1994: 17,36) to dual-containment (Edwards 2014: 53–76). As permanent members, they had an extremely strong position within the UNSC and the committee alike. Because the sanctions resolutions did not contain a sunset clause, the sanctions enforcers could veto any proposal lifting the sanctions. Within the committee, they could object to any exemption request.

Second, anti-sanctions states, particularly belonging to the non-permanent non-aligned caucus (Colombia, Cuba, Malaysia, Yemen, the so-called 'Gang of Four' see Hannay 2008: 37; Bosco 2009: 160, later Djibouti, Ecuador, Morocco and Oman) formed the other extreme pole. These members ultimately sought to lift all sanctions on Iraq whatsoever (Malone 2006: 65–67; Johnstone 1994: 17). The policy goal of anti-sanctions states was the "maximum liberalization" of sanctions. In other words, "all sanctions measures were bad and thus all waivers were good" (Conlon 2000: 79). As these members were not equipped with a veto they had an inferior bargaining position. Nevertheless, they determinedly tried to relax sanctions by using humanitarian waivers as opportunity to adopt precedents exempting an increasing number of item categories from sanctions by committee practice ("Trojan Horse", Conlon 2000: 60). Third, in between these two extreme poles, a number of countries including Belgium, Canada or the Chairing delegations (Finland, Austria and New Zealand) adopted a moderate policy position. In the studied period, China silently

supported the regime (Yang 2013: 137). Finally, the remaining members, including the African caucus, only very infrequently intervened during committee meetings[4].

As a consequence of adopting numerous but separate implementation decisions in light of UNSC resolutions, coupled with the extremely diverging interest constellation, one would expect that functional differentiation indeed prompts rule-based decision making. Because all committee members have an interest in providing interpretation of UNSC resolutions, while simultaneously they strongly diverge about the exact form of regulation, they are expected to face significant coordination problems. Consequently, committee members are expected to engage in setting focal points either through formal rules or the adoption of precedent decisions within the committee, or both. Although the powerful permanent members are in a superior bargaining position, within the functionally differentiated setting, they are expected to face costs for dismissing similar requests that will increase over time. The weaker states are expected to pursue a strategy to align similar but slightly different proposals to earlier successful precedents to the range of permissible sanctions exemptions by decision practice.

The resolution establishing the sanctions regime and Iraq sanctions committee was characterized by the absence of concrete decisional guidance for the committee through UNSC resolutions (see resolution 661 (1990), para. 6; Conlon 1995b: 635; Koskenniemi 1991: 122, 126–130). While Iraq was subject to a complete economic embargo, only medicines were exempted and foodstuffs could only be shipped in "humanitarian circumstances", which the committee was left to decide upon. This is mainly the consequence of the negotiation process on resolution 661 (1990) were finally the contentious matter of the exact nature of the embargo, in particular on foodstuffs, was intentionally left ambiguous to achieve broader consensus. It also reflects the reluctance of permanent members to create rules that might later bind oneself (Conlon 2000: 45–53).

[4] In 1990, the share of meeting time spent on committee member interventions was: Gang of Four 38.7% [Yemen (14.0%), Cuba (12.8%), Colombia (6.7%), Malaysia (5.2%)], P-3 (33.6%) [US (14.1%), UK (12.8%), France (6.7%)], Canada (6.7%), Soviet Union (3.7%), China (3.3%), and the remaining Ethiopia (3.2%), Romania (3.0%), Cote d'Ivoire (2.9%), Zaire (2.6%), Finland (1.9%, in national capacity). Source: Sanctions Papers document (on file with author).

5.2 Theoretically-relevant case episodes of decision-making

The Iraq sanctions regime's initial substantive and procedural criteria created governance issues related to the separation of rulemaking and rule-application. In the following sections, three case episodes on foodstuffs exemptions, on exemptions of other humanitarian items and on flight exemptions are analyzed separately with a focus on the specific need for rules, the consequences of rule-making and in a third step, whether or not the rules actually drove committee decision-making towards rule-based decisions. Then, a final section will take a macro perspective on all decisions taken from 1992 to early 1995 to devise large-n evidence of rule-based decision-making.

5.2.1 Requests to ship foodstuffs in "humanitarian circumstances" require the adoption of rules in the early stage of the regime

The case episode of the Iraq sanctions committee immediately after resolution 661 (1990) shows that a decision blockade on foodstuffs shipments prompted the adoption of Council rules and committee precedents as focal points to guide behavior in later cases. Since states opposing sanctions closely aligned their decision requests to earlier precedents, these states could enlarge the range of potential foodstuffs beneficiaries even against the interests of powerful members. Whereas the UNSC had imposed a comprehensive trade embargo, it had exempted "supplies intended strictly for medical purposes, and, in humanitarian circumstances, foodstuffs" (resolution 661 (1990), para. 3c). However, the resolution did not define what "humanitarian circumstances" were and who should determine if such situation had actually arisen (Conlon 1995b: 635). While the states politically opposing the sanctions regime (Cuba, Yemen) considered foodstuffs as generally exempted, the sanctions proponents (US, UK) preferred a literal interpretation that no such humanitarian circumstances had yet arisen (Koskenniemi 1991: 126–127).

The ambiguous wording of "humanitarian circumstances" instantly led to a contentious discourse about the applicability of sanctions on foodstuffs within the sanctions committee and single-case foodstuffs shipment requests caused a decision blockade (Graham-Brown 1999: 90). As early as the second meeting, anti-sanctions

states (Cuba, Yemen) argued for a broader approach "which prohibited the use of hunger as a means of warfare" (Cuba, Yemen, SR. 2). Although many committee members agreed that either the committee or the Council should clarify the nature of the foodstuffs embargo (Canada, Cuba, Yemen, UK, US, USSR), for instance through adopting "(…) general principles (…) of deliveries of foodstuffs" (USSR, SR.5), preferences of committee members considerably diverged. On the one extreme, some states, seeking to retain a complete economic embargo, advocated a strict legal interpretation according to which the committee or Council should first determine if humanitarian circumstances really existed followed by deciding how shipments should proceed (US, UK, Canada, SR.6). The sanctions proponents opposed such shipments because they feared that even food shipped to non-Iraqis "might fall into the wrong hands" (emphasis removed, Simons 1996: 45–46, 115-116). On the other extreme, members preferred to simply accept all foodstuffs shipments (Cuba, Yemen, SR.2, SR.5; Cuba, Yemen, Colombia, Malaysia, SR.6).

While the committee previously discussed the matter without specific requests before it, defining "humanitarian circumstances" became a matter of urgency when the non-committee member India requested shipping foodstuffs to 160,000 Indian nationals residing in Iraq and occupied Kuwait (Chair, India, SR.5). While The UK and the US had an interest in providing clarification before UN member states would unilaterally interpret the resolution broadly (Conlon 2000: 46), they delayed action and insisted on requesting additional information (US; UK, SR.5, 7). Others advocated to pursue consultations on a general rule (Canada, Zaire, later also UK and US) whilst a third group preferred to immediately grant the request (Cuba, Yemen, Colombia, all SR.7). Notably, committee members recognized that a decision on the Indian request was significant for the committee's future operation of similar requests. One group suggested that the committee should adopt a general procedure (Canada, US, SR.7; US, UK, France SR.8), whereas other members believed that "the Committee might be setting a precedent by adopting the draft decision" (China, SR.8, also Ethiopia, SR.12) or that the Indian request was a "test case" (Canada, SR.12), which would guide decision making in later cases (see also Zaire on behalf of non-aligned caucus, Finland, SR.8, Canada, SR.14). As a result of consultations, the P5 circulated a draft rule under which foodstuffs were to be allowed "on the basis of impartial information" and only in responding to emergency situations (France, SR.8)

to satisfy the terms of the resolution (i.e. foodstuffs only in humanitarian circumstances), whereas Zaire, on behalf of Cuba, Yemen, Colombia, and Ethiopia introduced a competing proposal suggesting to grant the Indian request, which led to a heated debate if a single decision should be adopted or if a general framework should be established or both (Zaire, 13 other committee members, SR.8).

Because the committee had persistently failed either to adopt a general rule or to grant the Indian precedent (SR.7-8, 10), the committee referred the issue "that had clearly become a matter which the Security Council alone could decide" (US, SR.10) to the UNSC. On the Council level, sanctions enforcers were particularly determined to keep the number of permissible exemptions as low as possible because they feared that a positive decision on the Indian exemption will lead to a many more similar requests which could be hardly rejected (Doyle 1990a, 1990b). The UNSC adopted resolution 666 (1990) on 13 September 1990 with Cuba and Yemen voting against. Agreement to the resolution was coupled with a package deal to adopt a committee decision to grant the specific Indian shipment "on the basis of the information provided (…) to be carried out as provided for in the relevant Security Council resolutions" (SR.11, also Cuba, SR.13; Koskenniemi 1991: 129–130). The US immediately emphasized that the authorization was solely for "one Indian ship" (Boucher 1990).

Adopting a Council resolution submits Council members to the consistency requirement associated with rulemaking. The adopted rule is consistent and does not contain provisions that one-sidedly benefit powerful members. The resolution requested the committee to determine if "circumstances (…) in which there is an urgent humanitarian need to supply foodstuffs to Iraq or Kuwait (…)" have arisen. However, the committee should make its determination only "after receiving the reports from the Secretary-General" based on "information from relevant United Nations and other appropriate humanitarian agencies and all other sources on the availability of food in Iraq and Kuwait" (paras 3,5, see Conlon 1996b: 252). In case the committee granted foodstuffs shipments, these "should be provided through the United Nations in co-operation with the International Committee of the Red Cross or other appropriate humanitarian agencies and distributed by them or under their supervision" thereby restricting purely bilaterally provided foodstuffs (para. 6). In

essence, the UNSC provided the committee with a procedure according to which the decision on a foodstuffs shipment request required impartial information on the humanitarian situation, while granted foodstuffs shipments should be distributed or at least supervised by recognized humanitarian agencies (para. 6).

Instantaneously, other non-committee members, which had not yet evacuated all their nationals residing in Iraq or Kuwait, namely Bulgaria, Sri Lanka, Viet Nam and Yugoslavia, filed foodstuffs shipment requests almost identical to the Indian precedent (Koskenniemi 1991: 129–130). Sri Lanka explicitly aligned its request to the Indian precedent (Sri Lanka, SR.15). Bulgaria, Yugoslavia and Viet Nam at least implicitly pledged that their requests were "in compliance with the relevant Security Council resolutions" (Bulgaria) and that they "stood ready to comply with any conditions set by the Committee, including, (…) the dispatch of [Red Cross] personnel" (Yugoslavia, similarly Viet Nam, SR.15). In fact, anti-sanctions states succeeded in "creating a precedent that they hope will allow for food relief shipments" (Hall et al. 1990). Although committee members in general acknowledged that foodstuffs could be sent to third-country nationals in accordance with the Indian precedent, first distribution and supervision should be determined in the Indian case (e.g. US, SR.12) and for other cases, more information on the precise need (e.g. Canada, SR.12) or on the dissemination would be necessary (e.g. US, SR.12; US, France, SR.13, also Conlon 1995b: 636–637). Hence, the sanctions enforcers deferred these requests by arguing that as a consequence of evacuations, surpluses of foodstuffs from the Indian shipment would deprive the requests of their basis because then again first "(…) it was important to determine the existence of humanitarian circumstances (…)" (US, UK, SR.16, also US, France, SR.15). The committee finally agreed to authorize India to bilaterally coordinate with states wishing to supply food to their nationals in Iraq (Chair, SR.15).

While powerful members had acceded into an unfavorable decision to grant the Indian request (Hall et al. 1990; Koskenniemi 1991: 129–130), the decision allowing India to make surplus food available to third-country nationals on a bilateral basis even forced powerful members to reluctantly grant an almost identical Palestinian

request (S/AC.25/1990/COMM.22[5]). The Palestinian request was problematic for the US and the UK since the PLO had openly supported Iraq and they feared that the food could be diverted to Iraqi authorities or armed forces (Ibrahim 1990; Malone 2006: 10; Hannay 2008: 32). In a heated committee debate, the US "felt bound to state that there was a difference between the situation of the nationals of [other states] (…) and the situation of the Palestinians, in Kuwait, a large resident population (…) [which were not] third-State nationals" and that in fact, foodstuffs were originally intended for "detainees and hostages" (US, SR.20). In addition, the US desperately challenged that humanitarian circumstances really existed (US, SR.20). However, the Chair, "in accordance with the Committee's practice" (Chair, SR.20), had already informed the Palestinian authorities of the relevant procedure, that is to approach India bilaterally (Chair, SR.20). Several delegations fiercely refused to repeal this decision (e.g. China, Yemen, Cuba, Malaysia, SR.20) stating that "the decision had already been taken (…) and (…) [Yemen] therefore regarded as unacceptable the repeated attempts to introduce new procedures for the sake of political expediency" (Yemen, SR. 20). China regarded repealing the decision a "mistake" (SR. 20). The US delegation unwillingly gave in with a face-saving compromise suggesting that the decision would be on a "one-time basis" (US, SR.21), while the final consensus decision did not contain any such restrictions based on nationality and allowed to supply surplus foods to "all needy non-Iraqi groups" (Chair, SR.21).

Before the Gulf War, the committee steadily expanded the range of acceptable foodstuffs beneficiaries by decision practice, even against the will of powerful members. Until early 1991, the committee solely had acknowledged that humanitarian circumstances existed for third-country nationals in Iraq and Kuwait (Conlon 1996b: 252). Accordingly, only in few instances, after determining humanitarian circumstances and reassuring national red cross supervision, the committee approved foodstuffs shipments, notably, when the USSR requested "to deliver foodstuffs, citing 'humanitarian circumstances,' to Soviet nationals in Iraq" (1990/COMM.111), even without discussion (SR.20). Interestingly, shortly after the

[5] All Communications referenced in this chapter are from the 'S/AC.25' Iraq sanctions committee and are denoted short as '199x/COMM.x' in the following. For Council nomenclature see Sievers/Daws 2014: 465–467.

committee accepted both the Palestinian and the USSR request, Pakistan requested "to airlift foodstuffs to their nationals on humanitarian grounds" (1990/COMM.156), which prompted a heated committee debate because the US and the UK wanted to block approval. While they had to agree that the request was acceptable "in principle" (UK, US, SR.22), they argued that more information about the distribution was required. Many other committee members fiercely rejected this position arguing that "Pakistan's request was no different from other requests that had been granted" (Cuba, SR.22), the committee could not discriminate "among different nationalities" (Malaysia, SR.22) and Yemen even uttered that "the Committee should proceed with regard to Pakistan in the same manner as it had with regard to the Soviet Union, (…) which had been granted without difficulty" (Yemen, similarly China, Colombia, Cote d'Ivoire, Ethiopia, France, all SR.22). Accordingly, after the Chair had received assurances about the distribution solely by Pakistani embassy employees to Pakistani nationals, the committee quietly granted the request (1990/COMM.169).

While all these decisions had applied to third-country nationals, and not to Iraqis, non-committee members sought to broaden decision practice by requesting shipments to the general population. In early 1991, Iran (1991/COMM.42), Libya (1991/COMM.43) and Mauritania (1991/COMM.53) separately requested to ship foodstuffs to ordinary Iraqis, which the sanctions enforcers disapproved because the committee had not yet determined that humanitarian circumstances existed for Iraqis pending a Secretary-General report (UK, SR.26). During this time, the committee only approved a foodstuffs shipment for ICRC delegation members (1991/COMM.62). However, as information on the dire humanitarian situation was mounting, a more carefully formulated Iranian request to ship foodstuffs for the "most vulnerable population groups as indicated in resolution 666 (1990)" (1991/COMM.68, COMM.69), outlining the shipment details including beneficiaries and quantities, supervised by the Iranian red crescent (Chair, SR.30), as the US had earlier based its objection on, was finally approved. After that, the committee approved similar Belgian and Danish requests on the same conditions (1991/COMM.70, 1991/COMM.72), which further led to more positively decided similar requests. Even an anti-sanctions state was allowed to ship foodstuffs. When Yemen requested to send "20,000 tons of wheat intended for the most vulnerable population groups in Iraq", distributed by the Yemeni Red Crescent and the ICRC, it

explicitly stated that the request was "identical to another that had already been dealt with by the Committee" (Yemen, SR.33). Although sanctions enforcers again tried to delay a positive decision arguing they did not receive instructions from their capitals (UK, SR.33), they had to give in because it resembled earlier precedents. After that, the committee systematically granted other foodstuffs requests detailing beneficiaries, quantities and distribution (1991/COMM.82, other requests concerned Denmark, 1991/COMM.90/95; Germany, 1991/COMM.98; Jordan, 1991/COMM.105), while the committee sought additional information for incomplete requests (Turkey, 1991/COMM.93; Mauretania, 1991/COMM.91; Libya, 1991/COMM.94).

In the initial phase of the Iraq sanctions regime, sanctions enforcers demanded an absolutely strict reading of what UNSC resolutions and committee precedents stipulated, but were forced to follow established precedents even against their interests. Although sanctions enforcers were determined to avoid several similar incoming requests, they could no longer ignore that a precedent was set and thus that similar requests had to be treated consistently. In a step-wise manner, the committee subsequently enlarged its decision practice on foodstuffs shipments in humanitarian circumstances, first to third-country nationals, and in the end allowed the shipment of foodstuffs to ordinary Iraqis. Since anti-sanctions states and their non-committee allies closely aligned their decision requests to similar earlier positive decisions, they could set precedents enlarging the range of potential beneficiaries, despite powerful member's resistance.

5.2.2 The need for precedents on acceptable and non-acceptable categories of "no-objection items" after the Gulf War

This case episode sheds light on the elaboration of rules on 'no-objection items' by precedent through processing a large number of similar but unrelated requests after the Gulf War. Similar to the previous foodstuffs episode, the specific decision situation within the sanctions committee provided incentives to adopt substantive decision criteria through decision practice even though powerful committee members rejected the notion of regulation and wished to keep the committee as flexible as

possible. As such, decisions on single cases functioned as precedents that created pressures of conformity in subsequent decisions. In essence, this logic of decision-making generated an implicit definition of acceptable and unacceptable categories of goods.

The Gulf War in late February 1991 systematically altered the circumstances of the sanctions regime (Koskenniemi 1991: 133–134; Hannay 2000; Krasno/Sutterlin 2003). Even though the UNSC demands of resolutions 660 (1990) and 661 (1990) had been realized by force, resolution 687 (1991) transformed the sanctions regime into a long-term effort to safeguard future Iraqi compliance (Bosco 2009: 164). The UNSC imposed a multitude of far-reaching conditions on Iraq, including border demarcation, disarmament, inspections, and compensation obligations so that the sanctions became preventive in character (Malone 2006: 74–75; Conlon 2000: 161–162; Johnstone 1994: 17–18). Regarding the humanitarian situation, the Secretary-General, tasked Martti Ahtisaari to conduct a humanitarian needs assessment mission to Iraq (Campbell et al. 1991: 179; United Nations 1996: 36–37), which the UNSC endorsed (S/22322, in United Nations 1996: 184). The Ahtisaari report (S/22366) drew a grim picture about the humanitarian situation noting that "[t]he recent conflict has wrought near-apocalyptic results (…)" (para. 8). Ahtisaari urged to remove sanctions on foodstuffs and related equipment for producing foodstuffs (para. 18). In addition, he pressed to allow the import of water and sanitation equipment, as well as medicines on "a more extended scale" including generators, vehicles and incubators (para. 27). The report made it clear that an "imminent catastrophe" would ensue if not "massive life-supporting needs are (..) rapidly met" (para. 37) (Cortright/Lopez 2000: 45–46).

In light of these profound developments, on 22 March 1991, the committee adopted a consistent rule restructuring committee decision-making. The committee made "a general determination that humanitarian circumstances apply with respect to the entire civilian population of Iraq" (S/22400, paras 2,3). In fact, the committee established three distinct procedures to process incoming exemption requests. First, it reiterated that medical supplies were generally excluded from the embargo. Second, the committee installed a simple notification procedure for foodstuffs (i.e. the exporting state simply must notify the committee of the shipment). Third, it

established a "no-objection procedure" for all other "civilian and humanitarian imports to Iraq as identified in Mr. Ahtisaari's report" (S/22400, para. 3; Campbell et al. 1991: 179; Conlon 2000: 60–62). Accordingly, such a request would be granted unless one or more committee members objected (Farrall 2007: 147-149, 156-157). The Council formalized these three exemption procedures with adoption of resolution 687 (1990), while slightly correcting that ("materials and supplies for essential civilian needs as identified in the [Ahtisaari] report (…) and in any further findings of humanitarian need by the Committee" would be decided under no-objection procedure (resolution 687 (1991), para. 20). Whereas Cuba voted against, Yemen and Ecuador abstained.

Although the committee had adopted rules on a whole new range of items, the committee member's decision situation did not systematically change so that committee members still found themselves in a coordination situation. First, the regulatory task was to determine which incoming requests were to be granted under the vague definition of humanitarian exemptions, the terms of which remained disputed within the committee (Graham-Brown 1999: 70–72). While medicines were excluded and the committee now treated edible foodstuffs consistently as notification items (see 1991 COMM.Log, on file with author; Conlon 2000: 61, 141–142), UN member states' requests for shipping a particular no-objection item in a particular quantity to Iraq confronted the committee with a steady stream of unrelated decision proposals. As such, the nature of exemption requests varied extremely, ranging from "soap", "textiles", "cars", unspecified "spare parts", "steel sections", a "combine harvester" to a complete "water desalination plant". In fact, although many goods clearly would be either of humanitarian or non-humanitarian nature, the provision left a large grey area around the borders of these categories (Conlon 1996b: 253). Thus, the committee had to collectively decide which of these goods indeed represented "civilian and humanitarian imports" and which were incompatible with UNSC resolutions, while each decision was of marginal importance.

Second, because governments did have strongly diverging preferences, under the consensus-based "no-objection" procedure, this would have led to extremely restrictive committee practice, were only items uncontested by all committee members would be approved. On the one hand, the sanctions enforcers, in particular

the US and UK were determined to completely uphold the economic embargo unless Iraq would comply with all previous UNSC resolutions, including resolution 687 (1991). The US argued against "premature relaxation" of sanctions, not least to provoke regime change (Lewis 1991; Johnstone 1994: 17–18, Xinhua 1991b, 1991a). The US had only reluctantly agreed to the March 1991 committee decision and had initially even disputed Ahtisaari's findings (Rosen 1991, see also US, SR.36). Thus, the committee should grant exemptions only in tightly constricted circumstances and not expand exemptions (Conlon 2000: 76). On the other hand, anti-sanctions states continued to favor the lifting of all sanctions, and if that is not achievable, at least substantially extending the range of exemptions (Johnstone 1994: 17). This situation was neatly summarized by the committee Chair:

> "One school of thinking says (...) we should be rather open minded as far as humanitarian needs are concerned. We should interpret the possibilities of facilitating such deliveries rather generously. But there is another school of thinking (...) [which] says the pressure on Iraq should be maintained as long as there is not full compliance with the resolutions" (Hohenfellner, May 1992, World Chronicle, as cited in Graham-Brown 1999: 71).

Since adopted general rules contained in UNSC resolutions only vaguely distinguished between *supplies intended strictly for medical purposes*, *foodstuffs* and *civilian and humanitarian imports* as acceptable goods and all other items as unacceptable goods, the decision situation required the committee to adopt further precedents. Over time, the committee created a comparatively well-defined distinction between acceptable and unacceptable requests through adopting precedent decisions on unrelated decision requests. Previous committee decisions provided a cumulatively growing standard against which future requests could be evaluated. Early requests mostly concerned ICRC and Red Cross societies' shipments, which the committee granted regardless of the requested items as a general rule (Red Cross: "items of medical and humanitarian assistance", 1991/COMM.106, "sanitation materials, fuels, camp material, hospital material and vehicles", 1991/COMM.107, "tea", 1991/COMM.130, "relief material", 1991/COMM.156 and 1991/COMM.169).

This logic was also applied to UN system agencies.[6] The committee also systematically granted requests by states on behalf of domestic humanitarian agencies.[7]

Simultaneously, UN member states began to request no-objection items, the processing of which required the committee to determine the limits of acceptable categories based on humanitarian characteristics of the good and its end-use. The first request was made by Sweden on 25 April 1991, when it requested to ship "spare parts for Dura/Taji silos and an electric engine for a grain silo", which the committee granted (1991/COMM.133). Other requests were filed by Germany ("spare parts for harvester threshers", 1991/COMM.175), Turkey ("detergent and water pumps for

---

[6] *UNHCR:* "relief supplies" 1991/COMM.110, "relief supplies, supplies of fuel and office material for use of the UNHCR office" 1991/COMM.123, "thirty vehicles" 1991/COMM.166, "a list of equipment" 1991/COMM.172, "1,766 family tents and two temporary warehouses" 1991/COMM.181, "one Toyota land cruiser, five Volvo station wagons" 1991/COMM.182, "10,000 family tents" 1991/COMM.185, "20 Nissan Patrol Station wagons and 9 Nissan 4x4 Double Cab Pick-up" 1991/COMM.195, "radio and computer equipment, emergency field office kits, tents, kitchen material, high protein biscuits, soap and emergency health kits, 9 pick-ups, 20 Nissan patrol and 10 Volvo station wagons" 1991/COMM.204, "100,000 jerrycans, 20,000 cooking stoves, 72,300 kitchen sets and 50,000 blankets" 1991/COMM.260, "four diesel generators" 1991/COMM.344, "40 gas chlorinators" 1991/COMM.554; *UN Department of Administration and Management:* "building material and supplies, generators, air-conditioning units and other equipment and supplies" 1991/COMM.282; *UN Office of General Services:* "spare parts for two Iraqi helicopters" 1991/COMM.391; *UNICEF:* "480 ball bearings" 1991/COMM.582, "12 small water treatment units" 1991/COMM.528, "108.8 tons of chlorine" 1991/COMM.318, "6993 kg of nitrous oxide", 1991/COMM.343, "540 metric tons of liquid chlorine", 1991/COMM.374, "nine Lister diesel engine generating sets", 1991/COMM.405, "1,100 chlorine test kits, 1,100 packs of AT0102 DPD1 R tablets, 1,100 packs of Phenol red tablets", 1991/COMM.438, "320 single seal valves for standpipe installations, 100 spare packs including washer and nuts", 1991/COMM.443, "chlorine pumps and connector tubes", 1991/COMM.470; *WFP:* "two Toyota Land Cruisers" 1991/COMM.478; *WHO:* "six vehicles", 1991/COMM.217, "supplies and equipment", 1991/COMM.232, "educational equipment", 1991/COMM.261, "rehabilitation supplies", 1991/COMM.262, "supplies and equipment", 1991/COMM.307, "supplies, equipment, nitrous oxide", 1991/COMM.441.

[7] *MSF branches:* "water treatment supplies", 1991/COMM.108, "medicines and various supplies", 1991/COMM.118, "emergency humanitarian assistance" 1991/COMM.119, "articles meant for basic civilian needs", 1991/COMM.174 and 1991/COMM.224, "water purification and treatment systems", 1991/COMM.210; *Oxfam Belgium:* "two water purification and treatment systems, four generators and accessories", 1991/COMM.126; *Danchurchaid Denmark:* "two generators and two refrigerators for medical purposes", 1991/COMM.128, "Mitsubishi truck", 1991/COMM.142/158, "vehicles and equipment (…), two sets of satellite communication equipment to be reexported to Denmark upon completion [and](…) new clothes", 1991/COMM.189, "water purifying tablets and powder, high protein biscuits and hospital equipment (…) 2 Toyota (…) pick-ups and (…) reinforced plastic folio, for use (…) in the refugee camp in Sulaymanyah", 1991/COMM.201, "reinforced plastic tarpaulins", 1991/COMM.206; *Danish refuge Council Denmark*: "group equipment for volunteers", 1991/COMM.167.

tractors", 1991/COMM.179), Sweden ("3 containers of Water Treatment Plants", 1991/COMM.198) and Germany ("50 harvester threshers", 1991/COMM.199). The committee took its first negative decision when Bulgaria sought to export Iraqi-owned "zinc oxide" (1991/COMM.209). Iraq confirmed it was indeed for the "manufacture of automobile tires and batteries" (1991/COMM.229) and thus clearly subject to sanctions. Similarly, when Turkey requested to send "clutches and other parts and accessories of motor vehicles" (1991/COMM.218), the US objected: "According to the Ahtisaari report, parts for transport equipment fell into the category of essential items (…) by virtue of which the Committee could approve their delivery. (…)[The US] wished to receive an assurance that the export of the parts and accessories in question would actually facilitate the distribution of foodstuffs (…)" (US, SR.44). The Chair summarized that "[i]t was his understanding that the parts would be used solely for humanitarian purposes (…), and if the Turkish authorities gave a satisfactory response the Committee would approve the request. If not, authorization would be denied" (Chair, SR.44). After Turkey had only clarified that the parts would be used to repair civilian vehicles, the committee rejected the request (SR.47).

Numerous cases illustrate that the committee gradually developed an increasingly consistent decision practice. The committee granted many requests it considered finished products satisfying the substantive criterion of essential civilian needs (Turkish shipment of "500 tons of mixed animal feed" (1991/COMM.216); Denmark, "equipment and spares (…) for repair work of the water supply in Sulalimaniya" (1991/COMM.239); Turkey, "16.200 tons of soap and 6.550 tons of detergent" (1991/COMM.240); Denmark, "2,010 rolls of reinforced polyethylene film to be used in the erection of tents/shelters for civilians" (1991/COMM.242); Germany, "800 stove pipes as essential spare parts for steam baking ovens" (1991/COMM.245); Australia, "3,000 mt of aluminum hydroxide, required in the purification of drinking water" (1991/COMM.251); Austria, "chlorine and other materials, required in the disinfection of drinking water" (1991/COMM.252); Turkey, "50.4 tons of water tubes of steel" (1991/COMM.255); Netherlands, "spare-parts for a milk sterilizator" (1991/COMM.257); France, "400 tons of quinoleate 15" (1991/COMM.258)).

Other requests similar to earlier requests deemed essentially humanitarian were granted. This includes Turkey's request to export "5,000 tons of soap and 20,000 tons of detergent" (1991/COMM.292) and a Dutch request to ship "20,000 metric tonnes of planting material for consumption potatoes" (1991/COMM.306). Germany was allowed to ship used clothes and shoes, soap and detergent, and books (1991/COMM.495). The committee also granted Japan's request for "12 small water treatment units" (1991/COMM.528). A Brazilian request "to export four shipments of kraftliner and fluting paper to Iraq, for use in packaging and storage of foodstuffs and medical supplies" was granted accordingly (1991/COMM.631). Of Turkey's request to provide Iraq with "1,000 tons soap, 105 tons of other ovens and 200 tons of detergent" the committee accepted soap and detergent, while the UK requested more information on "other ovens" (SR.47, 1991/COMM.316), which Turkey supplied clarifying that it concerned "small electric ovens (…), produced for home use" (1991/COMM.316/Add.1) so that the UK withdrew its hold.

Requests that included more than one item or those without a clear humanitarian purpose illustrate that requests were carefully scrutinized against earlier precedents taking end-use into account as secondary rule. When Turkey requested to deliver "angora goat hair, soap, glassware and calcium" (1991/COMM.270), the UK rejected 300 tons of industrial calcium as being non-essential (UK, SR.47). At the same time, the committee accepted requests for calcium for water purification (Jordan, 1992/COMM.973, US, 1992/COMM.210, France, 1992/COMM.961), while rejecting it for other uses (Turkey, 1992/COMM.486). As Japan requested to send "radio communications equipment (…) for use in communication between hospitals and between local offices of the Iraqi Red Crescent" (1991/COMM.284), the UK objected because the exact humanitarian need of the radio equipment "had not been substantiated" (UK, SR.47). Sweden's request to ship refrigeration equipment for use in beer brewing (1991/COMM.704) was rejected on grounds that this would not fall within the "category of exports intended to meet essential civilian needs" (US, SR.62). From a request to ship "polypropylene bags, grate cooler plates (…), artificial leather, wheat bran for animal feed and printed metallized film for use in the packaging of confectionery goods", the committee only accepted animal feed (1991/COMM.430). While Turkey's request to export wooden spools for use in

outdated weaving machines was rejected, it was allowed to ship jersey and used clothes to Iraq (1991/COMM.625).

Even requests by powerful committee members were carefully scrutinized and rejected if they did not meet humanitarian purposes. When the USSR requested to trade "parts for grain elevators and for the installation of a drainage collection system, under contracts concluded with Iraq in 1986" (1991/COMM.289), the committee granted grain elevators parts, but the UK rejected "automobile and tractor equipment and road-building machinery", which the USSR representative criticized (UK, USSR, Chair, SR.47). Further, the committee blocked a French request for approval of "spare parts for refinery process pumps and fire pumps" (1991/COMM.649; SR.58). When the UK sought clearance for "Gulley Emptiers/Sewerage Equipment" (1991/COMM.560), the committee put the request on hold. Only after UK "[r]evised technical details", the shipment was granted after almost four months (SR.55; 1992/COMM.158). The US only lifted its hold on a UK request shipping "various chemicals and equipment for water purification" (1992/COMM.745) after the UK had supplied more specific information on items and end-use (SR.76). A UK request for "5,000 tons of polypropylene granules for the manufacture of flour bags" (1992/COMM.1062) met resistance. Japan argued that while it did not object to flour bags it "did object to exporting polypropylene granules for their manufacture". The US "[e]ndorsed that objection" adding that polypropylene had "a variety of possible uses, and 5,000 tons was a very substantial amount. Moreover, since Iraq had always been authorized to import bags, there was no need for it to manufacture them" (SR.79). In anticipation of committee objections, the UK withdrew a request for shipping "500 tons of caustic soda for use in the manufacture of soap and detergent" (1992/COMM.1063).

A particular controversy ensured over UK's request to export "11,000 cases of scotch whiskey, 20,000 cases of canned beer, 19,200 cases of cigarettes" (1992/COMM.1065). The committee accepted cigarettes in line with previous approved requests (e.g. Cyprus, 1992/COMM.335; Bulgaria, 1992/COMM.375). However, Japan rejected 'whiskey' "based on consideration of what constituted a luxury item" not because it is an alcoholic beverage, while other delegations "questioned the criteria applied in approving of beer and disapproving of whisky"

(Ecuador, Cape Verde, SR.79). The Chair reminded that if the committee considered a product as being 'foodstuffs' it would only be notified, whereas a "no-objection item" would only be granted if it was for essential civilian needs (Chair, SR.79). The UK grudgingly accepted that "[t]here was clearly a perceived difference between certain items". Indeed, "[t]he point being made by some delegations when objecting to goods they regarded as luxury items was whether they responded to essential civilian needs" and that "some alcoholic beverages had in the past been classified as foodstuffs" (UK, SR.79). Finally, the committee rejected whisky as non-essential item, while treating beer as foodstuffs (1992/COMM.1065).

An initiative of skeptical states to formalize this decision practice through a Council or committee declaration of acceptable goods, however, failed. In December 1991, during a regular sanctions review, several members pushed for a lifting of sanctions on particular goods, but sanctions enforcers disagreed. As a compromise, the UNSC requested the committee "to study immediately those materials and supplies for essential civilian and humanitarian needs (…) with the purpose of drawing up a list of items which may (…) be transferred from the 'no-objection' procedure to a simple notification procedure" (S/23305). Moreover, the Council decided that committee members objecting to requests had to provide a "specific explanation" (S/23305 as reproduced in United Nations 1996: 372), which would allow committee members to exchange more detailed arguments. Accordingly, on behalf of the non-aligned caucus, Zimbabwe requested transferring a list of items to the notification procedure (Chair, SR.61). In support, India stated that the list sought to formalize committee practice "in accordance with previous decisions to clear items" (India, SR.61). For almost three months, the Chair conducted inconclusive consultations (Chair, SR.62). While non-aligned countries favored the transfer of as many items as possible to the notification procedure (Ecuador, Zimbabwe, India, Cape Verde, SR.66), sanctions enforcers favored to keep the committee "as flexible as possible" (US, SR.66), argued against "any formal change in procedure (...) [restricting] the right of all delegations to raise objections where there was cause for concern" (US, SR.66) and generally resisted any formal agreement to transfer items to a notification procedure (Conlon 1996b: 260). While the UK admitted that it had not objected many such items in the past, if necessary it should have the right to raise objections (UK, SR.66).

Eventually, in the so-called "gentlemen's agreement" adopted on 6 March 1992, the committee agreed on an informal set of rules that had emerged from previous decision practice. The committee, in a diplomatically phrased formula suggested by the Chair (SR.66), recognized that the "members did seem to agree to look favourably upon requests" for the following items under the no-objection procedure: (1) Medical equipment and supplies (2) packaging material for foodstuffs (3) civilian clothing (4) supplies for babies and infants (5) soaps and detergents (6) animal feed and agricultural seeds (7) animals and eggs for breeding purposes (8) materials for education (9) materials for water treatment and sewage disposal plants; and (10) storage facilities for grain and foodstuffs (on file with author, reproduced in Conlon 2000: 61–62). This list is short of five additional categories that had been proposed in the non-aligned letter: electrical supplies for civilian use; refrigeration, heating equipment and their spare parts; kitchen supplies and spares; vehicles, spare parts for civilian use; and supplies for agricultural and cattle breeding sectors (Conlon 2000: 62). The gentlemen's agreement demonstrates that even states, which rejected formal rules because of their restricting effects on decision-making options could not avoid the constraining effects of informal rules "in practical terms" (Ecuador, SR.66).

Overall, the committee decision practice unintendedly provided a working definition of "essential humanitarian items", although powerful members rejected any formalization of substantive decision rules. According to that implicit definition, finished products for direct human consumption or clear civilian or humanitarian use including larger development projects (e.g. water purification) would be positively granted. Unfinished products that could be further manufactured and thus not for direct human consumption would contribute to Iraqi industry and would be rejected accordingly. For instance, this explains why caustic soda for the production of soap was withdrawn (UK, 1992/COMM.1063) but finished soap was granted (Turkey, 1991/COMM.316). In the grey area between acceptable and unacceptable items, non-committee members sought clarification as to which items would be acceptable and under which circumstances (Japan, pesticides, SR.55). Mostly, deliberations took place around the borders of the contested items groups. Text-based searches in the summary records reveal that during the first 117 committee meetings, committee

members in many instances explicitly invoked "precedent" (52 hits) and argued for the similarity of a particular case to earlier cases in 70 cases[8]. Elected members that joined the Council, thereby being faced with precedents they had originally not consented to, where forced to either forgo pursuing diverging case-specific interests or risk compromising established decision practice. For instance, Japan perceived 'cigarettes' as an objectionable item per se, but did not formally object to not act against established practice (SR.73, see also Conlon 2000: 71).

This established committee practice is strikingly consistent and gave committee members, as well as requesting states the possibility to judge the chances of getting a certain request approved based on the type of item, accompanying information and humanitarian justification. In an interoffice memorandum, Paul Conlon stated that "[b]ecause of its frequent dealings with the Committee in the past, the Jordanian Permanent Mission is very well able to predict which requests have some chance of being authorized" (7 Sep 1993, on file with author). Thereby, a system of mutual behavioral expectations is created, where outcomes can be predetermined on the basis of the good and end-user (Kaul 1996: 101). To evaluate if a request is legitimate, information becomes a decisive variable so that even states highly critical of sanctions expressed concern about the vagueness of some requests. Yemen, for instance stated that "[a]pplications from Turkey tended to be very vague. The Chairman should inform (…) Turkey of the need for greater clarity in Turkey's applications (…)" (Yemen, SR. 48). Similarly, even the committee Chair noted that "[s]ome countries supplied a very brief description of the items they intended to export. Others, (…) provided more detail concerning the humanitarian justification for the shipments. He suggested that Turkey should be asked to submit more detailed requests and explain the reasons for the export of various articles which, at first sight, did not seem justified" (Austria, SR.76).

In sum, after the Gulf War, although several powerful members were highly skeptical of formalizing permissible exemptions, committee decision-making required

[8] Proximity search within five words for term "same" combined with term "category" (8), "procedure" (6), "request" (6), "case" (5), "manner" (4), or "way" (4); proximity search within five words for term "similar" combined with terms "request" (17), "case" (9), "one" (8), "earlier" (2), or "circumstances" (1).

considerable elaboration of rules through precedents. Single-case decisions created precedents that guided subsequent decision practice. Openly inconsistent decision-making would have risked committee deadlock against the background of strongly diverging interests among committee members. A purely case-by-case oriented decision-making would have triggered reciprocal behavior among committee members when objecting states also seek to achieve successful proposals (Kaul 1996: 103). As a consequence, establishing a system of consistent decision practice following categories of acceptable and unacceptable items became "(…) the rational core of an attempt to define more clearly which sectors and activities should benefit from humanitarian mitigation considerations (…)" (Conlon 1996b: 259).

5.2.3 Quality of requests, not power determines committee decisions

While the previous case episode has demonstrated how the committee established a remarkably consistent decision practice, in this section I seek to demonstrate that committee members consistently applied the previously established precedents by taking a systematic large-n perspective on all 8,189 committee exemption decisions adopted from mid-1993 to early 1995. If the committee would indeed have adopted a power-based logic of decision-making, the expectation would be that powerful states fared considerably better than non-permanent members and non-committee members, regardless of the item requested. On the contrary, for a rule-based approach, the expectation would be to observe similar success rates of powerful and weak states for an item and that a request's outcome could be mainly explained by whether or not the item falls under the category of humanitarian items.

The Iraq sanctions committee, being confronted with a steadily growing stream of decision proposals, further routinized its decision-making. The number of communications increased dramatically from around 180 in 1990 to almost 9,000 in 1995. Whereas the committee held about one meeting per week in 1990, it only held about one meeting per month in 1995. Consequentially, the committee processed an increasing number of communications: from about 20 per meeting in 1990 to about an astounding 800 per meeting in 1995 (S/1996/700, para. 37). Almost all

communications were exemption requests (Conlon 2000: 59–60; Kaul 1996: 100). Given an unchanged decision situation combined with a persistently diverging interest constellation, this points to a less politicized and more rule-based decision practice.

The following descriptive statistics and regression analyses are based on the *Iraq Sanctions Committee Decisions Dataset* which contains 8,189 no-objection requests submitted by UN member states between the 99th meeting (26 June 1993) and the 121th meeting (31 January 1995). The dataset used the committee's "status of communications" lists, which were introduced due to the "sharp increase" of waiver requests (Chair, SR.98) and completely standardized their processing. For each meeting starting from the 100th meeting, the UN Secretariat provided a list detailing the requests received since the previous list, detailing the requesting *country*, the requested *item,* the *decision* (approved or rejected) and the *justification* for any objection. Across states, the number of requests varied. While 36 states made 10 requests or less, only 14 states made more than 50 requests. Jordan (5,055 requests) and Turkey (1,148 requests) alone submitted 75.7 percent of all requests. The average approval rate was about 43 percent. Non-committee members and humanitarian organizations submitted 7,478 requests (91.3 percent), non-permanent committee members only 164 requests (2.0 percent) and permanent members 548 requests (6.6 percent). Among the P5, the UK submitted most requests (443), followed by China (48), US (28), France (15) and Russia (14). The large number of UK requests can be attributed to the policy of government agencies to promote legitimate trade with Iraq, while the UK applied a thorough domestic vetting policy (Graham-Brown 1999: 73; Simons 1996: 113).

The outcome of exemption requests is measured by a dichotomous dependent variable. *Decision success* indicates on the level of individual requests whether a request was approved (1) or rejected (0). Since during a meeting, any member of the committee could take up an individual request and provide counter-arguments, justifications and appeals to release holds or blocks (Conlon 2000: 33), meeting records were systematically screened to assess cases of released holds or objections. For regression analysis, humanitarian organizations' requests (N=233), shipments of diplomatic goods (N=19) and items rejected for secondary reasons (e.g. 'excessive

quantities', 'incomplete request form', N=251) have been excluded because they follow distinct secondary rules. Apart from the information on the rejection justification, other information on secondary characteristics such as end-use or quantities is missing.

The *type of good* being a proxy for rule-based decision-making is the major independent variable. The author coded almost 3,700 different goods into larger categories of goods according to the UN Standard International Trade Classification (SITC, Rev. 4) reducing the number of item categories to 68.[9] 270 items could not be coded due to missing information on the exact material (e.g. "tubes"). Subsequently, the author assigned SITC item groups to eleven broad categories of goods as dummy variables.[10] To control for the power-based decision-making explanation, which assumes a positive association between the approval rate and the power resources of a requesting state, two sets of independent variables being proxies for power resources were used. First, as institutional power proxies, *P5-status* applies to a Council permanent member's request (1) and is (0) for any other country's request and accounts for the often perceived P5 dominance. *E10-status* applies to a country's non-permanent membership at the time of a request (1) and is (0) for a non-Council member's request. The non-permanent members were privileged because they decided about their own claims and thus could potentially extract package deals. Second, as other more remote power proxies, the economic power resources of a country are measured by the logged Gross Domestic Product (GDP) in billion USD (current prices) for 1994 as published by the International Monetary Fund World Economic Outlook Database. 'Hard power' resources are measured by the logged Composite Index of National Capability of the Correlates of War Project for 1994

[9] The author used the updated version 'SITC Rev.4' as provided by the UN Statistics Division, available at: http://unstats.un.org/unsd/cr/registry/regcst.asp?Cl=28 [22 March 2016].
[10] *Food production raw materials* includes SITC categories 0, 4, 5, 8, 9, 11, 22, 29, 42 (N=70). *Precursors and medical supplies (non-end user)* include SITC categories 54, 87 (N=211). *Crude items* include SITC categories 23 to 27, 32, 33, 41, 57 and 121 (N=284). *Prefabricated items* include SITC categories 61 to 69, 77, 661, 662, 8122, and 8519 (N=2768). *Finished items* include SITC categories 58, 81 to 83, 88, 89, 665, 666, 691, 764, and 775 (N=1430). Items for human consumption include SITC categories 55, 84, 85, 122, 642, 658 (N=591). *Chemicals* include SITC categories 50 to 53 and 59 (N=335). *Agrochemicals* include SITC categories 56 and 591 (N=27). *Transportation items* include SITC categories 78 and 79 (N=403). *Machinery items* include SITC categories 71 to 74 (N=659). *Non-essential electrical appliances* include categories 75 and 76 (N=47).

(Singer 1987) comprising of military expenditure, military personnel, energy consumption, iron and steel production, urban population and total population. Finally, by using country dummies, the analysis controls for the requests by those states, which submitted most requests. This includes Jordan within the group of non-committee members and the UK that submitted most P5 requests.

The descriptive statistics support the presumption that the committee fundamentally determined whether to accept or reject a request based on primary and secondary rules. In fact, the committee applied a "modified categorical approach" when processing exemption requests (Conlon 2000: 60; S/1996/700, paras 38-44). Accordingly, the committee had to determine in which broader category the type of item would fall and thus which decision procedure was to be followed. An Algerian request to ship medicine, foodstuffs and other items (blankets, wheelchairs, candles and generators), illustrates this approach. First, the committee simply "took note of the intention to send medicines". Second, the committee automatically acknowledged that the shipment of foodstuffs had been "duly notified". Third, the committee granted all other items under its no-objection procedure (1991/COMM.143).

Even though the embargo excluded *supplies intended strictly for medical purposes* and drugs and medical supplies in end-user form did not require authorization, the committee regarded precursors and more complex medical applications as no-objection items (e.g. X-ray machines, hospital furniture) (Conlon 2000: 61, S/1996/700, para. 40). As concerns *foodstuffs*, the committee only regarded 'finished edible products' for human consumption as foodstuffs and raw materials for food production (e.g. seeds, food coloring, emulsifier, bitter hops, malt) as no-objection items (Conlon 2000: 61; internal memo, 27 October 1993, on file with author). As such, foodstuffs notifications were consistently acknowledged (Conlon notes notifications for a total value of 1.3 billion USD for 1993, 1.2 billion USD for 1994, see Conlon 2000: 66–69). The Finnish and Belgian 'sugar cases' illustrate that even clearly fraudulent foodstuffs notifications could not be declined because these notifications fell outside the committee mandate. In 1993, Finland requested to ship three million tons of sugar, which would satisfy more than six years of Iraqi pre-war consumption, priced at 750 million USD (confidential note on the recent sugar case, 16 December 1993, on file with author). Similarly, in 1994, Belgium requested to

ship one million tons of sugar per year, at a total value of 1.1 billion USD, in about 80 shiploads over four years. These notifications with excessive quantities multiple times as much as Iraqi annual consumption, requiring hundreds of shipments and thus being totally infeasible (confidential note, see above) were only avoided by kindly requesting the submitting governments to withdraw these requests (Conlon 2000: 127–129). Even sanctions enforcers never challenged foodstuffs notifications "since there were no grounds for disallowing a notification" (Conlon 2000: 141–142; internal memo, 27 October 1993, on file with author).

The category of *no-objection items* included a vast range of different items, for which the committee had to distinguish humanitarian from non-humanitarian items solely through precedent and its decision practice since resolution 687 (1991) only provided a rather general definition. Specific lists of items have only been established later (i.e. positive items list (resolution 1284 (1999)) or negative items lists (resolution 1409 (2002)), see Malone 2006: 119–120). For this task, the committee considered the type of item as a primary criterion and the end-use, the end-user, and the quantity of the requested good as secondary criteria (New Zealand Ministry of Foreign Affairs and Trade 1995: 36).

Considering the descriptive statistics for the aggregated decision success of item groups (approval rate) in the dataset, one observes that the committee applied a categorical approach whereby finished goods would be accepted, while only pre-processed goods, which would run counter to the embargo, would be rejected. In fact, the approval rate varies extremely across different item categories, despite missing information on end-use. Table 7 classifies the approval rates of requested items across all 68 hand-coded SITC item categories, while the table does not contain any other secondary information such as end-use to explain remaining variation. The large majority of item categories have either a very high approval rate above 75 percent (21 categories with 2,544 requests) or a very low approval rate below 25 percent (32 categories with 3,910 requests). A request from any country in these categories has either a very high chance of approval or a very low chance of approval depending on the type of item. Only twelve categories are essentially contested (agrochemicals, fertilizer, paper, refractory bricks, power-generating machinery, machinery for particular industries, metal working machinery, other transport equipment, furniture,

photographic and optical goods, 969 requests). In these cases, the committee used secondary characteristics such as end-user to determine whether or not a request is permissible, which dataset does not systematically include. For instance, as the gentleman's agreements items highlight, items for clear humanitarian purpose among contested categories (for instance, 'paper for school', or a 'water purification plant') were admissible.

Several examples highlight the committee's logic. The committee rejected raw tobacco for the production of cigarettes within Iraq (6 percent approval), but consistently accepted ready-made cigarettes for direct human consumption (100 percent approval). Similarly, the committee rejected textiles, yarn and fabrics for the production of garments (6.8 percent approval), but accepted the shipment of ready-made clothing in almost all cases (97.5 percent approval). Regarding manufactures of metals, the committee approved those items that were for direct human consumption such as razor blades, shavers or door locks (86.4 percent approval), however, disagreed with those manufactured items that would provide support for Iraqi production such as nails, screws, welding bars or reinforcement steel (4.8 percent approval). Among the non-metallic mineral manufactures, the committee rejected raw glass sheets (9.3 percent approval) or luxury products such as marble (0 percent approval), whereas it accepted drinking glasses (98.1 percent approval) and ceramic tableware for household use (100 percent approval).

Some item groups exhibit specific secondary exemption rules. The committee regarded raw textiles only permissible in tightly circumscribed humanitarian uses including as coffin cloth, agricultural textiles, food packaging or school uniforms. Likewise, rubber manufactures, which mostly consist of 'tyres for cars', were disapproved, but 'tyres' for ambulances, tractors and bicycles, were permissible. Beverages are acceptable, but hard liquors would be rejected. Among the essential oils, soaps and detergents were accepted, but cosmetics, incense, and show polish were rejected (also Conlon 2000: 61, 70–72). Within the seldom accepted category of electrical appliances, small electrical switches have been consistently accepted. Finally, while 'miscellaneous manufactured articles' were usually accepted, audio and video cassettes were consistently rejected as non-essential.

Table 7: Aggregated Decision Success (Approval Rates) by Standard International Trade Classification Categories

SITC Code	SITC Code Description	Approval Rate	Systematic Exceptions	N
0, 5, 8	Food and live animals	100%		16
4, 9	Malt, hops, color, emulsifier	0%	Food color pigment (+/1)	11
11	Beverages	100%	Liquor, whisky, wine (-/3)	5
121	Raw Tobacco	6.1%		33
122	Tobacco manufactures	100%		45
22	Oil-seeds and oleaginous fruits	100%		4
23	Crude rubber	0%		11
24	Cork and wood	1.6%		61
25	Pulp and waste paper	0%		5
26	Textile fibers	0%		5
27	Crude fertilizers, and crude minerals	0%	Filter perlite (+/1)	7
29	Crude animal and vegetable materials	100%		28
32	Coal, coke and briquettes	0%	Charcoal (+/3)	8
33	Petroleum, petroleum products	0%		2
41	Animal oils and fats	0%		2
42	Fixed animal or vegetable fats and oils, crude	16.7%		6
50	Chemicals	18.8%		16
51	Organic chemicals	5.3%		19
52	Inorganic chemicals	21.1%		232
53	Dyeing, tanning and colouring materials	0%		68
54	Medicinal and pharmaceutical products	93.8%	Raw materials for medicine production (-/4)	36
55	Essential oils and resinoids and perfume materials; toilet, polishing and cleansing preparations	98.4%	Cosmetics, incense, shoe paint, shoe polish, shampoo elements, carnel olive oil (-/11)	381
56	Fertilizer	62.5%	*Contested*	8
57	Plastics in primary forms	0.7%		150
58	Plastics in non-primary forms	65.4%	*Contested*	104
59	Chemical materials and products	1.0%		198
591	Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant-growth regulators, disinfectants and similar products, put up in forms or packings for retail sale or as	68.4%	*Contested*	19

SITC Code	SITC Code Description	Approval Rate	Systematic Exceptions	N
	preparations or articles			
61	Leather, leather manufactures	0%		95
62	Rubber manufactures	0.8%	Partially: Tyres for bicycles, tyres for ambulances, tyres for agricultural vehicles (+/15)	497
63	Cork and wood manufactures (excl. furniture)	2.6%		117
64	Paper, paperboard and articles of paper pulp	48.0%	*Contested*	125
642	Paper and paperboard, cut to size or shape, and articles of paper or paperboard [diapers, sanitary towels]	100%		19
65	Textile yarn, fabrics, made-up articles	6.3%	Coffin cloth, agricultural textiles, food packaging, school uniforms textile (+/19)	807
658	Made-up articles, wholly or chiefly of textile materials [fishing nets, bed sheets, carpets, bedding]	95.7%		140
66	Non-metallic mineral manufactures	9.3%	Mill stones (+/3)	143
661	Lime, cement, and fabricated construction materials [marble]	0.0%		23
662	Refractory bricks	68.8%	*Contested*	16
665	Glassware	98.1%		206
666	Pottery [ceramic tableware]	100%		59
67	Iron and steel	4.6%		175
68	Non-ferrous metals	4.3%	Aluminum for packaging (+/9)	78
69	Manufactures of metals	4.8%		355
69(1)	Manufactures of metals for Iraqi end-user	86.0%		221
71	Power generating machinery and equipment	35.0%	*Contested*	20
72	Machinery specialized for particular industries	54.2%	*Contested*	369
73	Metalworking machinery	50%	*Contested*	2
74	General industrial machinery and equipment	60.4%	*Contested* Valves (-/12)	268
75	Office machines and automatic data-processing	20.0%		35

SITC Code	SITC Code Description	Approval Rate	Systematic Exceptions	N
	machines			
761, 762, 763	Monitors and projectors, sound-recording and reproducing apparatus	0%		12
764	Telecommunications equipment	80.0%		10
77	Electrical machinery, apparatus and appliances	14.6%	Electrical switches (+/20)	281
775	Household-type electrical and non-electrical equip.	82.0%		189
78	Road vehicles	5.2%		401
79	Other transport equipment	50%	*Contested*	2
81	Prefabricated buildings; sanitary, plumbing, heating and lighting fixtures and fittings	88.4%		285
8122	Ceramic sinks, wash-basins, wash-basin pedestals, baths, bidets, water-closet pans, flushing cisterns, urinals and similar sanitary fixtures	10.0%		30
82	Furniture and parts thereof;	52.9%	*Contested*	17
83	Travel goods, handbags and similar containers	75.0%		8
84	Articles of apparel and clothing accessories	97.5%		315
85	Footwear	97.2%		72
8519	Parts of footwear	18.5%		27
87	Professional, scientific and controlling instruments and apparatus	94.7%	Adhesive for medical use (-/4)	175
88	Photographic apparatus, equipment and supplies and optical goods; watches and clocks	57.9%	*Contested*	19
89	Miscellaneous manufactured articles	81.9%	Audio/Video cassettes (-/13)	311
D	Diplomatic Goods	100%		19
99	Not categorized	51.9%		270
Total				**7693**

Notes: Based on Iraq Sanctions Committee Decisions Dataset. Excludes 251 requests rejected for secondary reasons (incomplete request form, large quantities), 232 requests from humanitarian organizations and other missing values. Approval rate excludes systematic exceptions. Systematic exceptions column contains information if exception is positive '+' or negative '-' and the how many cases the exception concerns (N). Categories between 0.25 and 0.75 approval are considered contested.

Moreover, the descriptive statistics reveal that the Iraq sanctions committee consistently applied its previously established specific exceptions. First, the committee generally granted requests made by UN humanitarian agencies (e.g. WHO, UNHCR), the ICRC, other UN entities (e.g. UNSCOM, UNESCO), or by member states on behalf of humanitarian agencies (e.g. Kurdish Life Aid, Save the Children, Mine clearance). From 1993 to early 1995, the committee approved 225 out of 233 such requests. Notably, the committee granted these requests regardless of the type of items shipped even if the requests involved items that the committee had usually rejected (e.g. vehicles incl. spare parts and tires, glue, paint, iron and steel) and thus in line with earlier established committee practice (see 5.2.2). As an exception to this rule, the committee denied seven FAO requests on the basis of dual-use concern (spraying units, herbicides) and one WHO request (personal computer). Second, the committee generally granted member states requests to ship items under the no-objection procedure to their diplomatic missions in Iraq without exceptions (see Table 7). Of 19 such requests, many contained items that were usually rejected, including vehicles, building materials, communication devices and even unspecified "diplomatic goods" (the Yugoslavia committee established a similar exception, Scharf/Dorosin 1993: 789–791). Third, the committee consistently dismissed Iraqi exemption requests arguing that Iraq as a sanctions target and potential importer could not request such clearances, but only exporters to which the trade restrictions applied (resolution 661 (1990), para. 3c, resolution 687 (1991), para. 20, see Graham-Brown 1999: 71). Interestingly, even skeptical committee members did not question this perspective although they did have different views on the requests' substance (e.g. Iraqi request to ship bank notes, bottled mineral water, turbine for power plant; thermoelectric plant project; raw material for anesthetics production; replacement parts for airfield, SR.42, 43, 47, 48, 57, 61, 62, 64).

The descriptive statistics also show that committee members respected the previously adopted *gentleman's agreement items* (see section 5.2.2) as acceptable items, which accounted for about 17 percent of all requests (1,274 requests). As a result, the committee granted requests containing such items regardless of requesting states with few explainable exceptions (see Table 8) despite missing information on end-use. In contrast to the overall approval rate of about 43 percent for all items, the gentleman's agreements items fare significantly better at about 95.6 percent on

average. Most of the rejected items in these categories are unfinished products such as raw materials for producing food packaging or baby diapers or are considered non-essential or even luxury items, for instance, leather jackets. Since the dataset only contains information on the items concerned, the remaining variation could potentially be further reduced if the dataset would contain missing information on end-use and quantities. The only contested category concerns water and sewage treatment. While items of this category (83 percent) still fare considerably above the overall acceptance rate, the category contains many items deemed dual-use such as water treatment chemicals. For instance, caustic soda is usable in embargoed industry, but also has non-embargoed civilian uses as cleaning agent in food production, for sewage treatment or drug precursor (UK, SR. 112), while the dataset does not contain end-user information. However, in this category, the committee also rejected a permanent member's request and other Western states' requests.

Table 8: Gentleman's Agreement Items Approval Rates by Item Group

Item Group	Requests	Approval Rate	Negative Exceptions
medical equipment and supplies, incl. packaging material	202	91%	*Bulgaria*: med. material; *Jordan*: adhesive, tape f. med. belts/use, hospital fabric, phenol f. med. use, med. mould, raw materials, med. glycerine; *Netherlands*: cosmegenlyovac injections; *Turkey*: hematocrit centrifuges, pharmaceutical products; *India*: atenolol, cetrimide; *Pakistan*: med. supplies
packaging material for foodstuffs	70	97%	*Jordan*: tin plate sheets f. vegetable ghee packaging, polypropylene compound (food packaging grade)
civilian clothing	387	98%	*Jordan*: industrial gloves (2), outfit f. carpenters (2), steel shank pairs; *Korea*: ski gloves, leather jackets; *Spain*: children clothing (part of large request); *India*: children shoes
supplies for babies and infants	80 *	94%	*Jordan*: fluff pulp f. baby diapers, treated pulp f. baby diapers, alum. seals f. babies' feeding cups; India: cotton garments, baby suits, underwear, socks, children shoes; *Spain*: children clothing (part of large request)
soaps and detergents	373	98%	*Egypt*: detergent; *Jordan*: carnel olive oil, dry-cleaning detergent agent, liquid soap, soap flakes/powder; *Turkey*: detergent, soap
animal feed and agricultural seeds	40	100%	-
animals and eggs for breeding or hatching purposes	7 **	100%	-
books, materials and supplies for primary and secondary education	38	87%	*Jordan*: cartons for schools, cassettes for schools, exercise books; *Turkey*: school bags; *Korea*: drawing boards
spare parts and materials for water treatment and sewage plants	63	83%	*Italy/Jordan/Lebanon*: Water treatment chemicals (7); *Finland*: water purification plant; *Italy*: water filtering, desalination and purification system, water treatment system; *Jordan*: filter elements f. water purification, spare parts f. pumping stations/water treatment plants, spare parts f. water treatment, water treatment additives/material; *Lebanon*: water treatment equip.; *Sweden*: water treatment plants, pumps/electrical equip. f. water treatment plants; *UK*: sewer cleaning equip.
storage facilities for grain and foodstuffs, incl. silos	24	100%	-
Total	**1274**	**95.6%**	**-**

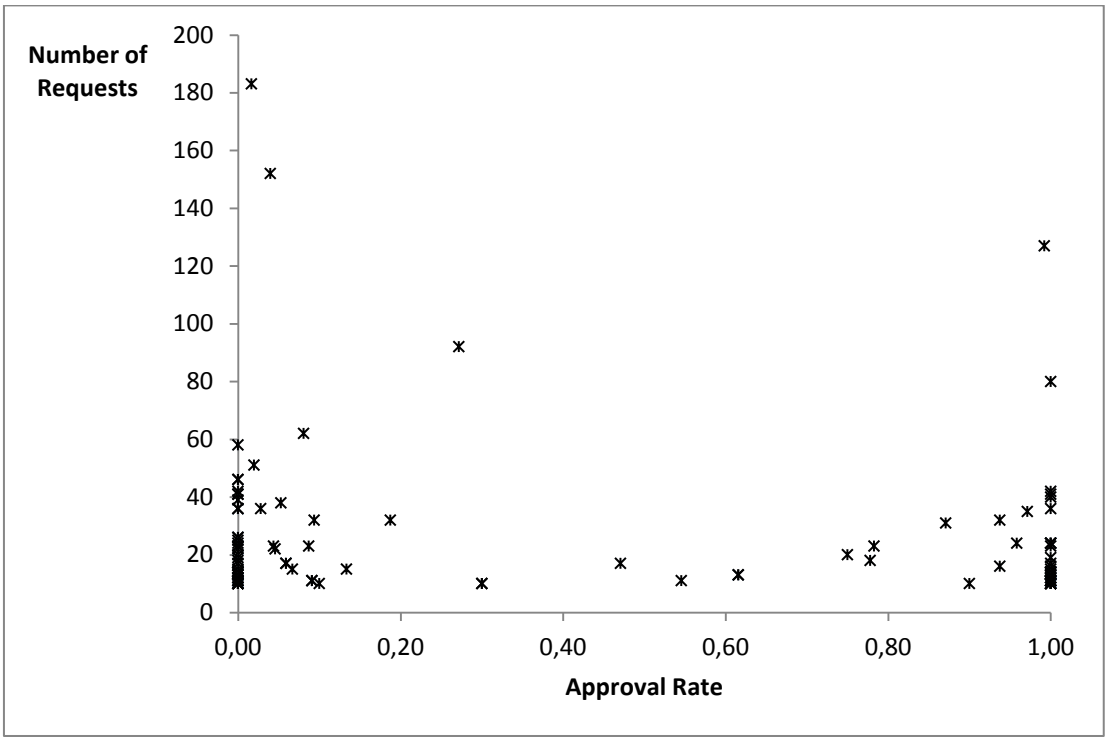
Note: Author's illustration based on Iraq Sanctions Committee Decisions Database. Excludes requests by humanitarian agencies and requests rejected for secondary rules (e.g. 'incomplete request'). Approval rate includes exceptions.

* These items were often submitted as 'supplies strictly intended for medical purposes' or as 'foodstuffs'.

** These items were often submitted as 'foodstuffs'.

The items, which have been requested 10 times or more, further illustrate the rule-based nature of committee decision-making. These items comprise of 114 single items – for example, 'plywood', 'batteries' or 'textiles' - and total 2,834 individual requests (about a third of the dataset). Figure 4 shows the approval rate by the number of requests of such items. Of these items, the committee consistently rejected 46 (0 percent approval), whereas it consistently accepted 33 items (100 percent approval). Furthermore, 39 items had an approval rate of more than 90 percent, while 62 items had an approval rate of 10 percent or less. Indeed, only eight items comprising 186 requests were essentially contested (between 25 percent and 75 percent approval rate: caustic soda, agricultural spare parts, spare parts, printing paper, hand tools, stationery, and paper). Accordingly, the distribution of approval rates approximates to a logistic function with either high or low probability for most items. In addition, if one compares an item's approval rate with the number of times it was requested, one can observe that contested items come in rather low numbers. The only outlier is 'caustic soda' (92 times, 0.27). The remaining variation could be potentially further reduced if the dataset would contain information on end-use.

Figure 4: Approval Rates of Single Items Requested 10 Times or More



Note: Author's illustration based on Iraq Sanctions Committee Decisions Database.

The descriptive statistics show that even powerful UNSC members had to accept the previous decision practice even if it applied negatively to their own requests within the dataset. Other committee members challenged several requests from fellow permanent members on the basis of the type of good or end-use. The committee approved only 57 percent of Russian, 75 percent of US, 79 percent of Chinese, 80 percent of French and 98 percent of UK's requests. Notably, even requests submitted by the powerful P3, which themselves were responsible for most objections, were rejected in accordance with established practice (UK requests for "paint for domestic use", "hand tools", SR.101, SR.103; 7 separate US request for "generator", SR.116, 121; French requests for "material for the manufacture of electric transformers", "concrete slabs of wood" and "textiles", SR.112, SR.113, SR.114). Much to the surprise of other committee members, the US blocked even a US company request to ship "5.000 mt of water pipes" submitted by Jordan for lack of assurance that they would not be used in industry (US, France, Ecuador, SR.76, 1992/COMM.696). Similarly, Russia and China had to accept that fellow committee members rejected their requests arguing they were "non-essential", would constitute "industrial input" or because the request lacked information. These exemption requests included raw materials (e.g. building material, wood for building purposes) and other non-humanitarian product categories (e.g. equipment and spare parts for power plants, batteries, wire, generators, tires) which were principally rejected. Remarkably, requesting P5 members did not call committee rejections into question during committee meetings or tried to pressure dissenting members with threats and bribes into compliance (all see SR.101-2, 110-3, 116-7, 120-1). Moreover, since all cases were considered separately during committee meetings, including the objected P5 requests, there is no evidence that the P5 or other committee members ever accumulated decisions into larger decision.

In Table 9, five logistic regression models test whether a request was approved (1) or rejected (0) as dependent variable and item categories as well as power proxies as independent variables, while non-coded requests serve as baseline model (52 percent approval). The statistical analysis reveals that committee decisions were largely rule-based and item groups are the best predictors of getting a request approved, even without having information on end-use.

Model 1 tests for the effect of rule-based decision-making variables on decision success and provides for a substantial overall model fit. All item categories have highly significant positive or negative effects except for the agrochemicals and machinery categories. Here, food production raw materials and finished items positively affect decision success and improve the odds by a factor of 2.89 and 5.35 respectively. Furthermore, precursors and medical supplies (non-end user) and items for direct human consumption have a strong positive effect on decision success and increase the odds by a factor of 10.6 and 28.45. Instead, crude items decrease the odds by a factor of 0.03, prefabricated items by a factor of 0.11, chemicals by a factor of 0.11, transportation items by a factor of 0.06 and electrical appliances by a factor of 0.17. Overall, the item categories as proxies for rule-based decision-making variables already show a considerable model fit in explaining decision success.

Model 2 tests for the effect of power-based decision-making variables on decision success and produces a lower overall model fit. In fact, only P5-status, E10-status and GDP are significant, but show some contradictory results. Whereas the P5-status and GDP increase the odds of getting a request approved by a factor of 5.48 and 1.58 respectively, E10-status in fact decreases the odds by a factor of 0.34. This result is largely driven by the fact that on average, the non-permanent members got more of their requests rejected. Compared to the rule-based model, the power-based model yields a considerably lower model fit.

Further, models 3 and 4 assess the factors driving the power variables in the data. Being a permanent member (model 3) tested in isolation increases the odds for getting a requests accepted by 28.03. Instead, controlling for Jordan and the UK (model 4) reveals that this effect is largely resulting from UK submissions.

Incorporating rule-based decision-making variables with the P5-status and the country dummies (model 5) and further including the three remaining power-based decision-making variables (model 6) shows that item categories are better suited to predict decision success than power variables. In both models, the rule-based decision-making variables provide for a large share of explanatory power. Above all, the effect sizes of the rule-based variables by far exceed the effect sizes of the power-based variables. Each item category either strongly increases decision success (precursors and medical supplies, finished items, items for direct human

consumption), strongly decreases decision success (crude items, transport, prefabricated items, chemicals, Non-essential electrical appliances) or does not affect decision success (agrochemicals, machinery). Concerning the model fit, adding the power-based variables to the rule-based variables does - but only slightly so - increase the model fit. When one considers that six new variables have been included, the model also gets way less parsimonious than the model using rule-based decision-making variables alone. The results for the 'food production raw materials' item category are in need of explanation. The variance can be accounted for if one considers the fact that while the committee considered foodstuffs as notification items and items for their production as generally exemptible no-objection items, the category in the dataset also comprises of items the committee rejected as luxury items. For instance, this includes malt and bitter hops for beer brewing, whiskey and white wine.

Table 9: Decision Success of Requests (Logistic Regression)

	(1)	(2)	(3)	(4)	(5)	(6)
Food production raw materials	2.89 *** (0.87)				2.18 * (0.68)	1.83 (0.58)
Precursors and medical supplies (non-end user)	10.67 *** (2.95)				7.35 *** (2.11)	7.02 *** (2.03)
Prefabricated items	0.11 *** (0.02)				0.12 *** (0.02)	0.13 *** (0.02)
Crude items	0.03 *** (0.01)				0.03 *** (0.01)	0.03 *** (0.01)
Finished items	5.35 *** (0.78)				5.75 *** (0.88)	6.07 *** (0.93)
Items for human consumption	28.45 *** (6.18)				28.32 *** (6.28)	30.57 *** (6.81)
Chemicals	0.11 *** (0.02)				0.12 *** (0.02)	0.13 *** (0.03)
Agrochemicals	2.00 (0.85)				1.71 (0.77)	1.43 (0.68)
Machinery	1.26 (0.19)				1.26 (0.20)	1.22 (0.19)
Non-essential electrical appliances	0.17 *** (0.08)				0.08 *** (0.05)	0.07 *** (0.04)
Transportation items	0.06 *** (0.01)				0.07 *** (0.02)	0.07 *** (0.02)
E10 membership		0.34 *** (0.06)				0.61 * (0.15)
P5 membership		5.48 *** (1.13)	28.03 *** (5.49)	2.33 *** (0.60)	3.19 *** (1.03)	2.85 ** (1.00)
logGDP		1.58 *** (0.07)				1.45 *** (0.11)
logHardPower		0.90 (0.05)				0.75 *** (0.06)
Jordan				0.27 *** (0.01)	0.45 *** (0.04)	0.84 (0.17)
UK				14.96 *** (6.55)	16.15 *** (7.92)	11.37 *** (5.70)
Constant	1.00 (0.13)	0.00 *** (0.00)	0.63*** (0.02)	1.52 *** (0.07)	1.37 * (0.19)	0.00 *** (0.00)
Log Likelihood	-2711.05	-4541.68	-4873.80	-4537.37	-2467.93	-2452.46
AIC	5446.1	9093.4	9751.6	9082.7	4965.9	4940.9
Pseudo-R2 (McFadden)	0.481	0.131	0.067	0.132	0.528	0.531
N	7660	7660	7660	7660	7660	7660

Note: Unstandardized Logistic Regression Results (odds ratios). ***p ≤0.001; **p ≤0.01; *p ≤0.05. Excludes objections based on secondary reasons (e.g. 'large quantities'), humanitarian organizations' requests and requests for shipping diplomatic goods.

Table 10 shows the predicted probabilities of an item being approved by the item categories and provides further evidence for the presumption of committee rule-based decision-making. Items belonging to the item categories 'food production raw materials' (65 percent chance), 'precursors and medical supplies' (87 percent chance), 'finished items' (72 percent chance) or 'items for human consumption' (92 percent chance) had a significantly higher likelihood to get a committee approval. Items had a significantly lower probability to get committee approval if they belonged to 'crude items' (2 percent chance), 'prefabricated items' (14 percent chance), 'chemicals' (8 percent chance), 'transportation items' (6 percent chance) or 'electrical appliances' (10 percent chance) categories. The item categories 'agrochemicals' and 'machinery' did not significantly affect predicted probabilities.

Table 10: The Predicted Effect of Item Categories on Decision Outcome

	Item not in category	**Item in category**
Food production raw materials	0.39	0.65
Precursors and medical supplies (non-end user)	0.38	0.87
Crude items	0.43	0.02
Prefabricated items	0.60	0.14
Finished items	0.32	0.72
Items for human consumption	0.30	0.92
Chemicals	0.43	0.08
Agrochemicals	0.40	0.57
Transportation items	0.43	0.04
Machinery	0.39	0.45
Electrical appliances	0.40	0.10

Note: Probabilities obtained from Model 1 above.

In sum, as concerns the effects of developed rules in the previous case episode, the Iraq sanctions committee's processing of almost 8,200 single case decisions provides strong support for the rule-based decision-making approach. Both descriptive statistics and regression analysis demonstrate that the power resources of states, including P-5 status, economic resources and material power cannot sufficiently well explain decision success on exemption decisions. On the contrary, the item categories provide a particularly powerful explanation of a request's decision success. Finally, even powerful committee members had to accept unfavorable decisions on their own decision requests.

5.2.4 The power of precedents in governing flight approvals

In the following, two case episodes of Iraq sanctions committee decisions on granting exemptions from the aviation embargo demonstrate that committee governance triggered rule-based decision-making. Accordingly, both case episodes illustrate how consistent substantive and procedural rules established by the Council and previous committee practice empowered weak states to submit successful requests in conformity with such rules and simultaneously restricted powerful member's discretion in rejecting those requests on the committee level. In the next subsection, I analyze the process leading to a positive committee decision on the 'Sudan meat flights', a particularly controversial case exempting foodstuffs flights. In the second subsection, I studied the process leading up to a positive committee decision on the 'pilgrim's flights', a particularly contentious case exempting passenger flights and relying on committee precedents further defining UNSC rules.

5.2.4.1 The power of decision rules on exemptions for foodstuffs flights: The 'Sudan meat flights' case

The case episode of committee decision-making on exemptions from the aviation embargo on foodstuffs flights shows how the separation of rulemaking and rule-application systematically altered committee members' decision situation in favor of rule-based decision-making. The considerable expansion of flight approvals by committee practice enabled even weak states to use the formal and informal procedures to force powerful states to unwillingly accept dubious requests, if they complied with existing criteria. Although UNSC members did not intend to create such an effect and powerful members were highly reluctant to adopt any such regulation, the case demonstrates that such rules actually triggered rule-based decision-making.

As concerns rulemaking, the UNSC provided two different sets of decision rules on exemptible foodstuffs flights to guide committee decision-making and thereby adopted a consistent rule set that did not favor any particular party. First, two months after the imposition of sanctions on Iraq, the UNSC tightened sanctions loopholes and clarified that comprehensive sanctions against Iraq included "all means of transport, including aircraft" (resolution 670 (1990)). Accordingly, the UNSC requested the

committee to decide about flight exemptions requests (para. 2), which, in effect, would be permissible upon committee consensus only if they were for the shipment of items exempted from sanctions (Conlon 2000: 87, 1995b: 644; Farrall 2007: 267). Second, after the Gulf War, the UNSC had designated foodstuffs as mere notification items, which the committee would automatically acknowledge (resolution 687 (1991), para. 20) and which committee members in practice never challenged (internal memo, 27 October 1993, on file with author; Conlon 2000: 141).

As concerns rule-application, the committee had approved all three flight requests carrying foodstuffs in the first half of 1992 without discussion (Algeria: "36 tons of baby formula", 1992/COMM.45, similarly 1992/COMM.464, Germany "1 ton of milk powder", 1992/COMM.57), when in July 1992, Sudan notified a shipment of 20,000 tons of meat on behalf of Al Rawasi Charity Investment Company (Ltd) to the committee and simultaneously requested the committee to approve 500-550 flights. The consignment of meat would be airlifted onboard a Sudan Airways Boeing 707 cargo aircraft on route Khartoum to Bagdad (1992/COMM.602). At a rate of four flights per week, if granted, the committee would have given advance approval for cargo flights over a period of two-and a half years (Conlon 2000: 94). According to the two Council rules combined, 'meat' clearly fell in the foodstuffs category and accordingly, 'meat flights' would be permissible.

The US and UK found Sudan's request to airlift meat to Iraq highly questionable for several reasons. First, sanctions enforcers as a matter of principle wanted to see the comprehensive embargo implemented as strictly as possible to increase incentives for Iraqi compliance with UNSC resolutions (Johnstone 1994: 17, 36; Conlon 2000). Approval of commercial flights would have run counter to that objective. Second, at that time, while Sudan had supported Iraq during the Gulf War, the US suspected Sudan to be an active state-sponsor of terrorism and that Sudan would harbor internationally wanted terrorists including Osama bin Laden (Schweid 1993; Comras 2010: 41–45). Third, the dubious commercial nature of the Sudanese meat flights was clearly obvious because the cargo airlifting of meat imposed excessive unit costs ($2,900/ton) and rather made the delivered meat a luxury item possibly to the benefit of Saddam's closer circle (Conlon 2000: 97). As alternative, for transport by ship one single shipment instead of hundreds of flights would have easily sufficed and would

have been much cheaper (Rowe 1992a). Against this background, fourth, several diplomats found the motivation of Sudan "bizarre" (Rowe 1992b) or even "crazy" (Rowe 1992a) since Sudan largely depended on food aid by bilateral and multilateral donors for roughly seven million people within Sudan (Rowe 1992a; Gedda 1992). Fifth, close observers suspected probable "hidden functions" behind the cargo airlifts including illegally unfreezing Iraqi assets (later confirmed by Sudan, Conlon 2000: 82, 95), kickback schemes or illicit passage of individuals, arms or other items (Conlon 2000: 97, 1996b: 266). Consequently, in the sanctions enforcers' perception this request was illegitimate and the committee should disapprove it accordingly. Even the neutral Austrian Chair publicly supported this view: "We had a bad feeling in the committee. (…) We didn't think it was intelligent. People are starving and they're exporting food" (Rowe 1992a, 1992b).

Within the committee, the Sudan meat flights request was contentious and sparked an intensive debate over several meetings around the terms of the flight embargo and the possibility of exemptions on foodstuffs flights. Many committee members including Yemen, Zimbabwe and China immediately welcomed the request and opted for a quick positive decision in line with Council rules and previous committee decisions (SR.57). Even sanctions enforcers reluctantly acknowledged that the shipment of 'meat' to Iraq clearly fell into the category of 'foodstuffs' and hence was simply a "matter of notification" (UK, Chair, SR.57). At the same time, the transportation arrangements were contentious as even humanitarian flights to Iraq had to be approved by committee consensus (resolution 670 (1990), para. 3). As a positive decision would grant a large number of flights, which were clearly commercial and not humanitarian in character, the UK and US expressed serious concerns, noted that the flight scheme would be "not acceptable" (UK, SR.61) and suggested that Sudan should use different transportation arrangements instead (UK, US, SR.61). However, despite significant reservations and after delaying the decision by demanding more detailed information on the flights from Sudanese authorities, ultimately the sanctions enforcers accepted the request because flights carrying "food in humanitarian circumstances" would be clearly acceptable under resolution 670 (1990) (see 1992/COMM.602). Instead, they insisted on using non-Iraqi aircraft, cargo inspections and reporting after each flight (UK, US, France, Chair, SR.74). When UNDP Khartoum, which supported the meat export scheme as a development project,

assumed responsibility to pursue the requested cargo inspections of meat flights, the sanctions enforcers found no further reason not to approve the request (UK, Chair, SR.76; Conlon 2000: 94).

On a whole, though it would have been reasonable to disapprove Sudan's flight request in line with powerful member's interests, Sudan succeeded and made a successful request for daily commercial flights from Khartoum to Bagdad transporting meat. Although the US and UK could have simply objected to the exemption request, which would have violated established rules, they were anxious that such rule violation would affect their own future requests as other committee members could reciprocally reject legitimate US or UK flight exemption requests (for instance US, 1991/COMM.168, 1992/COMM.174; UK, 1992/COMM.326, 338, 422, 505). In essence, "[s]till, the committee was forced to approve the request because its mandate allows it only to ensure that goods sent to Iraq are strictly for humanitarian purposes. Because Sudan's proposal did not violate the terms of U.N. sanctions against Iraq (…), the committee could not block the request" (Rowe 1992a, 1992b). Only after evidence was mounting in late 1994 that Sudan, in violation of the approved transportation scheme, had illegally unfrozen Iraqi assets, transported "passengers" for unknown purposes and diverted the flights to other locations such as Amman in case of "bad weather" (1992/COMM.1280/Add.9; Conlon 2000: 95, S/1996/700, paras 49-50), the P3 could withhold consensus for further such flights, which anti-sanctions states strongly criticized (SR.117).

This case episode shows that the separation of rulemaking and rule-application prompted rule-based decision-making on foodstuffs flight exemptions. Consistent rules provided by the Council enabled even weak states that aligned their decision proposals to established rules to submit successful decision proposals. Despite the concerns of powerful UNSC members, the request could not be rejected because it would be completely in line with established procedures on foodstuffs flight exemptions. In effect, the episode shows that rules – once they are established – limit the leeway even of powerful states and restrict options to object to unfavorable requests.

5.2.4.2 The power of decision rules on exemptions for passenger flights: The 'Pilgrim's flights' cases

The episode of exemptions on passenger flights shows how the separation of rulemaking and rule-application prompted rule-based sanctions governance in the particularly contentious 'pilgrim's flights'. Consistent rules adopted by the Council and further refined by committee practice enabled less powerful states to align their requests to earlier precedents and accordingly, to accomplish successful requests against the will of powerful sanctions enforcers that preferred an absolute closure of Iraqi airports.

Subject to the constraints of rulemaking, when the Council imposed aviation sanctions in 1991, it supplied a consistent rule-set further refined by committee practice on passenger flights, which did not favor powerful members. Under resolution 670 (1990) exemptions would be permissible only when they were for the transport of approved "cargo" and after committee approval (Conlon 2000: 87, 1995b: 644; Farrall 2007: 267). However, since resolution 670 (1990) did not explicitly mention passenger flights, the committee had developed its own decision practice on flights. Earlier, the terms of the resolution 670 (1990) were promptly subject to discussions. Many delegations felt that a case-by-case approach for granting flights created considerable workload. Canada, supported by Colombia, USSR and the Chair proposed that "the Committee should consider the first specific cases, from which parameters for future action could be derived (…) for dealing with requests from other countries" (Canada, SR.15). Accordingly, the committee approved an Indian request for an evacuation flight as a precedent based on the prerequisite that appropriate inspections would commence (Chair, SR.15). Afterwards, other slightly different requests considerably broadened the application of flight exemptions. Hence, the committee accepted a Belgian request for a flight "carrying only medical supplies to Baghdad and returning only with passengers" (1990/COMM.109) and a Vietnamese request flight for its diplomatic personnel (1990/COMM.123). While the UN Disaster Relief Office merely notified UN entities flights, the committee approved UN member states flights without consideration (US, 1991/COMM.115; UK, 1991/COMM.116; Denmark, 1991/COMM.128). As a secondary rule, the committee had consistently rejected Iraqi flight requests

(*information for the chairman*, 14 March 1995, on file with author, see above). Singular flights to be undertaken with Iraqi aircraft were accepted as long as they were not requested by Iraq and would return to Iraq (US, 1991/COMM.18; India, 1991/COMM.28; Iraq, 1991/COMM.291 (not approved)), while blanket approval of flights with Iraqi aircraft was rejected (1991/COMM.377, Iraq, 1992/COMM.249).

In their application, these rules also determined the outcome of the particularly contentious case of whether or not flights transporting pilgrims to Iraq would be permissible, despite the resistance of powerful committee members. In April 1993, Iraq requested to transport pilgrims from Baghdad to Mecca during the annual pilgrimage on-board Iraqi Airways aircraft (1993/COMM.781). Iraq emphasized that the "request was being made on humanitarian grounds" as road travel was strenuous (Chair, SR.92, Xinhua 1993). According to resolution 670 (1990) and committee precedents, while Iraqi 'pilgrim's flights' would not be permissible, 'pilgrim's flights' orchestrated by third countries clearly fell in the category of permissible flights.

The UK and the US regarded the pilgrim's flights requests problematic for several reasons. First, sanctions enforcers wanted a strict implementation of the comprehensive embargo as a matter of principle (Johnstone 1994: 17,36; Conlon 2000). Accordingly, sanctions enforcers preferred a closure of Iraqi airports unless in humanitarian emergency (e.g. US, SR.115). Second, the P3 were suspicious of Iraq and sympathetic anti-sanctions states that had an interest in resuming commercial international flights to and from Iraq and claiming humanitarian motives provided an avenue to set a precedent to that end (Conlon 2000: 90; Zhang 1994). Iraq in particular sought to regain control of its aircraft fleet mostly sheltered in Iran, Jordan and Tunisia (The Associated Press 1993). Third, the P3 had an interest in upholding a strict no-fly zone. Because any accepted flight would eventually cross, this could endanger the P3's air patrolling efforts (Cockayne/Malone 2006: 132–134; Malone 2006: 97–101).

Although the sanctions enforcers refused the Iraqi request based on the secondary rule that Iraq could not requests such flights, particularly not those using Iraqi aircraft (Chair, SR.92), they unintendedly set a precedent for future pilgrimage flights. The UK accepted that "[t]he pilgrimage was a sensitive humanitarian issue. There was a case for carrying elderly or infirm pilgrims to Makkah by air, but that should not be

done by Iraqi Airways. However, the Committee had previously agreed to the use of non-Iraqi aircraft for humanitarian flights, for instance for the import of foodstuffs from the Sudan. The pilgrims might be carried by, say, Jordanian aircraft, subject to normal checks by the United Nations and with due authorization by the Saudi Arabian authorities" (UK, also Japan, France, SR. 92). Similar views were exchanged when Iraq had submitted a repeated request in January 1994 (1994/COMM.871). Again, sanctions enforcers doubted that the transport of pilgrims on Iraqi airplanes would be permissible because "resolution 670 (1990) prohibited the use of Iraqi aircraft for any purpose other than to carry food in humanitarian circumstances" (France, SR.109). Accordingly, "based on precedent, it was unlikely that the use of Iraqi aircraft in that situation would be approved" but "[h]e would even go as far as to say that the Committee could approve the use of non-Iraqi aircraft" (US, SR.109). Anti-sanctions states and others heavily criticized this position, argued for an immediate granting of the flights on Iraqi airplanes and questioned the principle that Iraqi planes could not be used (Djibouti, Oman, China, Spain, Nigeria, Brazil, Nigeria, SR.109). The matter subsided as Iraq refused to alter its request.

Shortly after, Pakistan (1994/COMM.2658), a committee member at that time, seized the opportunity that the sanctions enforcers had clarified the modalities for pilgrimages in their endeavor to avoid the Iraqi request, and submitted a request aligned to what the US and UK had outlined to be permissible: Flights for Pakistani pilgrims, many of them "aged and infirm" to Iraqi Shiite shrines "intended solely for transporting pilgrims to Iraq and would be carried out solely by Pakistani civilian aircraft (…) in accordance with the usual practice, permit inspections by United Nations authorities in Pakistan both before and after each flight" (Pakistan, SR.112). First the sanctions enforcers were able to defer the request because the request suggested the flights to be "regularly scheduled flights" and not on case-by-case basis (UK, similarly US, SR.112). After two months of "strenuous consultations" (UN Secretariat summary 112th meeting), Pakistan had adapted its request accordingly so that it would now constitute "special pilgrimage flights (…) for a limited period" on Pakistani aircraft with only Pakistani nationals on-board as well as an inspection scheme, the sanctions enforcers were stripped of any possibility to legitimately reject the request (SR.114). Accordingly, the request "confirmed the P-3's worst fears that a precedent had been set" (Conlon 2000: 91).

In essence, though powerful members would have preferred to disapprove Pakistan's pilgrim's flight request, Pakistan succeeded and made a successful request for its pilgrim's flight. The US and UK could reject the earlier Iraqi request following established committee practice on Iraqi flights. However, although they could have simply rejected to consent to the Pakistani exemption request, this would have violated established committee practice, so they were anxious that such rule violation again would affect their own flight exemption requests. The US and UK could only avert another similar Indian request (1994/COMM.4609) by pointing to irregularities with the Pakistani flight, mainly that it did not carry elderly and infirm passengers and that it has violated the no-fly zone (Zhang 1994) and that in the Indian case, the possibility to travel by other means has not been convincingly ruled out, while it accepted that a precedent had been set (US, similarly France, SR.115). Because the sanctions enforcers could not go back to what was agreed earlier, they accepted that it was "the general principle that the Committee was willing to look into strictly humanitarian flights in exceptional circumstances" framed as "an individual request for a flight to transport pilgrims" (Pakistan, UK, SR.116). Ultimately, in resolution 1284 (1999, para. 26), the UNSC moved pilgrimage flights to a notification procedure (Manusama 2006: 147).

In sum, the case episode of passenger flights shows that the separation of rulemaking and rule-application prompts rule-based decision-making. While the Council rules refined by committee practice were consistent, weak requesting states aligned their decision proposals to earlier committee practice to increase the prospects of their requests and limit the leeway of arguments of inadmissibility. In effect, powerful states had difficulties in rejecting unfavorable requests from weak states, if these requests complied with the rules.

5.3 Chapter summary

The Iraq sanctions committee is a confirmatory case for the causal model of committee governance. The preference constellation among committee members, where one camp favored strict implementation of the comprehensive embargo, whereas the other camp favored to gradually lift the sanctions regime, created a

coordination situation in which all constituents preferred coordination over blockade. As theoretically expected, the Iraq sanctions regime operated in the mode of rule-based decision-making and even powerful actors were pressed towards rule adherence in spite of their outspoken resistance to be bound by rules. The Iraq sanctions regime is strongly characterized by the spontaneous rule adherence through precedents in the absence of unambiguous Council rules.

The effects can be systematically traced back to the separation of rulemaking and rule-application. Rule-based decision-making is rooted in the specific decision situation of the Iraq sanctions committees that faced a steady stream of numerous small exemption requests, which could not be meaningfully accumulated into decision packages. Because the Council did supply ambiguous rules, the committee mostly relied on precedents. Thereby, the Iraq sanctions committee showed that precedents also created the pressures of consistency because any precedent is equally applicable to later similar cases. After the committee had elaborated such rules, they profoundly transformed decision-making from power-based to strikingly rule-based decision-making. Even the world's most powerful states could not randomly ignore such rules, although they had been originally highly skeptical about adopting such rules in the first place.

As concerns rulemaking, even though the Council mostly delegated decision competencies to its committee without providing rules, the presumption according to which a group of states that delegates implementation decisions to a committee and concentrates on guiding decisions in the subsequent implementation stage is expected to adopt consistent substantive and procedural decision criteria, can be confirmed. In the case episode of the 'Sudan meat flights', the empirical evidence shows that if the Council adopts a consistent rule defining flights with a cargo of foodstuffs as permissible, which is consistent and does not favor any particular party to the conflict.

As concerns rule-application in the committee stage, hypothesis 1, which holds that if committee members process separate and asymmetric decision proposals of limited scope, they are expected to abide by given substantive and procedural rules, even if these rules contradict situation-specific preferences of some members, can be confirmed. In the 'Sudan meat flights' case episode, Sudan as a seemingly weak state

succeeded in successfully submitting a request for foodstuffs cargo flights to Iraq despite resistance from powerful committee members because Sudan's request was in conformity with what Council resolutions outlined. Accordingly, powerful committee members faced difficulties in rejecting an unfavorable, but permissible request from less powerful states, because they feared that such objection would cause committee blockade on their own legitimate flight requests in the future.

The Iraq sanctions committee systematically confirms hypothesis 2 according to which a committee facing a stream of separate decision proposals is expected to abide by precedents, even if such precedents contradict situation-specific preferences of committee members. The first case episode of foodstuffs exemptions before the Gulf War provides confirmatory evidence for rule adherence to precedents. As Council rules on foodstuffs exemptions from the comprehensive trade embargo in "humanitarian circumstances" to Iraq were overly ambiguous, committee members required mutually accepted substantive and procedural decision criteria to guide their case-specific decisions under strongly diverging interests. Because states in opposition to sanctions and their non-committee supporters closely aligned their exemption requests to positive earlier decisions, they could set precedents and consecutively enlarge the range of potential foodstuffs beneficiaries. In a step-wise fashion, the committee enlarged its decision practice on foodstuffs shipments in humanitarian circumstances, initially only to third-country nationals, and finally granted to ship foodstuffs to ordinary Iraqi citizens, even against the will of powerful members.

The second case episode also confirms hypothesis 2. While the Council amended the terms of the comprehensive embargo after the Gulf War and the ensuing humanitarian crisis, the decision situation was not systematically altered so that the coordination situation prompts committee members to adopt substantive rules on acceptable and unacceptable categories of goods through decision practice. The demand for rules on acceptable and non-acceptable categories of goods created an increasingly consistent decision-practice, although powerful members were opposed to formally adopt a list of acceptable goods. In the long run, the committee employed a system of rule-based decision-making, were the quality and the type of item

concerned determined the prospects of a request, and not the power of the requesting state. In this stage, even powerful members get several unwarranted requests rejected.

In addition, the hypothesis of adherence to precedents (hypothesis 2) receives strong support through a dataset comprising of all 8,200 exemption requests made from 1993 to early 1995. The data demonstrates that the committee systematically operated in a rule-based decision-making mode. Whereas a requesting state's power is an inferior predictor for decision outcomes, on the contrary, in line with observations of former Iraq sanctions committee practitioners, committee decisions are best modeled by item categories that explain decision outcomes. In total, the chance to get a request approved depended on the item belonging to either a previously exempted category of items or a previously rejected category of items. As such, while the committee rejected unfinished items, transportation items and chemicals constituting input to Iraqi industry or a dual-use concern, the committee accepted items for direct human consumption including clothing, sanitary articles and supplies for infants, as well as medical supplies and gentleman's agreements items. Finally, even powerful members were forced into accepting unfavorable decisions on their exemption requests.

As concerns the alternative explanation according to which decision making and the content of decisions are determined purely by the constellation of interest among powerful members, the committee summary records show that single cases are entirely treated separate from each other so that there is little evidence that package deals, decision power or side payments provide a meaningful alternative account of empirically observed phenomena. This finding is systematically confirmed in the large-n analysis in which the effects of the rule-based variables by far exceed the effects of power-based variables.

In sum, the Iraq sanctions regime demonstrates that the effects of committee governance are also similarly present for a sanctions regime based on a comprehensive trade embargo and not being subject to the due process criticism inherent to targeted sanctions. Because the governance structure prompted an equivalent decision problem for committee members, namely processing many unrelated single-case requests in light of UNSC resolutions, the effects are entirely comparable.

6 The Al-Qaida/Taliban Sanctions Committee – Administrating Targeted Sanctions in the Context of Counter-terrorism

In October 1999, the Security Council adopted resolution 1267 (1999) to counter increasing global terrorist activities and imposed mandatory targeted sanctions on individuals and entities associated with transnational terrorism. Initially, the Council sanctioned Taliban controlled airlines and froze Taliban held financial assets. The continued refusal of Taliban authorities to comply with Council demands combined with continued terrorist attacks attributed to Taliban hosted Al-Qaida affiliates induced the Security Council to impose targeted sanctions against Usama bin Laden and Al-Qaida associates (resolution 1333 (2000)). The central sanctions measures include imposing targeted sanctions, including an assets freeze, a travel ban and an arms embargo on designated individuals and entities to disrupt or at least constrain Al-Qaida terrorist activities. The UNSC further strengthened the sanctions regime after 9/11 (resolution 1390 (2002)) and transformed it into a global counter-terrorism effort without sunset clause (Comras 2010: 59–85). Since then, the UNSC and its sanctions committee procedurally advanced the sanctions regime significantly, and created the Office of the Ombudsperson as an independent review mechanism to review petitions from listed individuals and entities. In 2011, the UNSC decided to split the sanctions regime into an Al-Qaida sanctions regime and a Taliban sanctions regime in support of the Afghan peace process (resolutions 1988 and 1989 (2011)).

Although there is abundant literature on the Al-Qaida/Taliban sanctions regime, it does not yet fully account for the effects of committee governance. While many studies cover committee decision-making, the literature predominantly focused on the infringement of fundamental human rights of listed individuals inherently associated with targeted sanctions (Foot 2007; Keller/Fischer 2009; Gutherie 2005; Fassbender 2006; Heupel 2008). In particular the ‘Watson Report’ has questioned, which kind of procedural changes would better reconcile the sanctions measures with fundamental rights of individuals (Biersteker/Eckert 2006, 2009; Eckert/Biersteker 2012). In the center of discussion were court decisions (Bowring 2010; Keller/Fischer 2009; Hoffmann 2008), in particular the ECJ decisions on Kadi, which annulled the application of sanctions within the EU because the respective EU directive violated fundamental rights of sanctioned individuals (Feinäugle 2010; Goede 2011;

Michaelsen 2010). As a result, the procedural innovations are mainly explained with externally applied pressure for due process reforms (Kanetake 2008; Biersteker 2010; Bothe 2008; Heupel 2013), diplomatic initiatives of interested states (Cramér 2003) or national and regional court cases (Tzanakopoulos 2010). It also fared prominently within the debate about the emergence of a global administrative (sanctions) law (Kingsbury et al. 2005; Krisch 2006; Kanetake 2008). Finally, the Al-Qaida/Taliban sanctions regime was considered as an integral part of more general UNSC counter-terrorism efforts (Heupel 2007; Rosand 2010, 2004; Romaniuk 2010).

Contrasting the prevailing literature, in this empirical chapter, the consequences of committee governance within the Al-Qaida/Taliban sanctions regime for the regime's decision-making and the content of the decisions taken are traced. In this chapter, I seek to analyze whether or not the causal mechanism is present and actually prompts rule-based decision-making in this case. In a step-wise fashion, the Al-Qaida/Taliban sanctions regime transformed from a largely unconstrained sanctions regime into a tightly regulated decision-making apparatus. In the beginning, the sanctions committee operated in a laissez-faire decisions making mode simply accepting all decisions across the board, which quickly gave rise to grave implementation issues und severely undermined the legitimacy of the sanctions regime. In addition, also decision-making blockades, in particular on delisting, exemptions and the Taliban section of the list, provided governance issues. To remedy these issues and to secure their long-term interest in the sanctions regime, even powerful Council members gained an interest in restricting their discretion by means of Council and committee rules. In effect, this pushed committee members increasingly towards rule-based decision-making, where decisions are determined by the merits of a request vis-à-vis decision criteria.

The global Al-Qaida/Taliban sanctions regime is particularly insightful as it allows analyzing the effect of functional differentiation on decision-making within a sanctions regime applying assets freeze, travel bans and arms embargoes with a very high decision workload. This sanctions regime has the largest sanctions list and has adopted the highest number of listing and delisting decisions. It is also the most procedurally advanced of all sanctions committees which allows to study the determinants and consequences of many procedural changes particularly well

(Biersteker/Eckert 2006: 25). Although it is also unique as it is the sole global sanctions regime, targets individuals and entities that do not have state advocates and is preventive in nature, the regulatory decision problem is entirely comparable.

The chapter proceeds in four steps. First, the chapter weighs the distribution of UNSC member's preferences, which actors are the sanctions drivers within the regime and if we thus would anticipate the postulated causal mechanism to be present. Second, the chapter traces the causes and consequences of changes in the rule-set on four major committee functions, all of which gave rise to substantive regulation: the designation of individuals and entities, delisting and the review of the sanctions list, the granting of exemptions to the sanctions measures, and separation of the Taliban list in 2011. Third, the role of the Office of the Ombudsperson as an independent review mechanism and its effects on decision-making within the committee will be scrutinized. Finally, the chapter concludes with a summary of major findings.

6.1 The origins of the Al-Qaida/Taliban sanctions regime

The UNSC established the Al-Qaida/Taliban sanctions regime to curb the increasing terrorist threat that had manifested in several major terrorist attacks by means of imposing sanctions on presumed terrorists and their supporters. In particular, while the Taliban provided a safe haven for alleged terrorists, the UNSC initially targeted the Taliban government of Afghanistan to coerce the Taliban into ceasing to provide a sanctuary and training ground for terrorists, cooperating with international efforts to bring terrorists to justice and extraditing Usama Bin Laden, who was suspected of being responsible for major terrorist attacks including the 1998 US Embassy bombings in Nairobi and Darussalam (resolution 1267 (1999), paras 1-2). In reacting to continued Taliban non-compliance (resolution 1193 (1998), para. 15, S/PRST/1998/9, resolution 1214 (1998), para. 13) and after further terrorist bombings such as the attack on the USS Cole in Aden in 2000, the UNSC extended sanctions to Usama bin Laden, the Taliban and Al-Qaida associates. The UNSC significantly strengthened the Al-Qaida/Taliban sanctions regime thereafter, particularly in the wake of the attacks on the World Trade Center in New York as well as the Pentagon

on 11 September 2001, and since then transformed the sanctions regime into a long-term global counter-terrorism sanctions regime subject to continuous refurbishment (Farrall 2007: 374–375; Romaniuk 2010: 53–55; Rosand 2004; Comras 2010: 59–85).

The members of the Al-Qaida/Taliban sanctions committee faced a specific regulatory decision situation considerably different to that of the UNSC. The committee's main decision function is to adopt case-specific sanctions implementation decisions, mainly the listing and delisting of individuals and entities as well as reviewing the accuracy of current listings (Comras 2010: 94–95; Rosand 2004: 748). In addition, the committee decides about exemptions to the assets freeze (e.g. for foodstuffs, rent, or expenses for medical treatment) or to the travel ban (e.g. for religious obligation or judicial proceedings). Accordingly, UN member states including committee members should submit listing requests, later also delisting and humanitarian exemptions requests, to the sanctions committee, which would consecutively determine the appropriateness of any particular request. In contrast to the early phase, where UN member states submitted only few names, the committee listed over 260 individuals and entities in 2001 alone (Cortright 2009: 8). While each of these decisions is of marginal importance, the viability of the sanctions regime depends on its ability to adopt reasonable decisions on a larger scale.

In response to increasing terrorist threat, a broad coalition of states pushed for the establishment of sanctions and the subsequent strengthening of measures. Usually three or four permanent members (US, UK, Russia and sometimes France) as well as non-permanent members from all regions and other states including those Afghanistan's neighbors sponsored sanctions resolutions (sponsors of initial resolutions included Canada, the Netherlands, Russia, Slovenia, the UK and the US (resolution 1267 (1999), S/1999/1054), India, Kyrgyzstan, Russia, Tajikistan and the US (resolution 1333 (2000), S/2000/1202), as well as Colombia (resolution 1363 (2001), S/2001/741). Except for resolution 1333 (2000), where China and Malaysia abstained, the UNSC adopted all Al-Qaida/Taliban sanctions resolutions unanimously.

Because terrorism principally can affect any UN member state, UNSC members and non-members widely supported the sanctions regime as a viable counter-terrorism instrument on UN level (Doyle 2004: 86; Gutherie 2005: 496–497; Comras

2010: 57–58; Romaniuk 2010: 64–72) despite the possible infringement of fundamental human rights of targeted individuals. While the interest in the regime was lower in its very early days, states widely supported it after 9/11. Simultaneously, states' interests in the sanctions regime also diverged because states might want to abuse the sanctions regime for their own interest, be it to criminalize and constrain domestic opposition activities or to pursue other geopolitical interests (Rosand 2004: 752; US Embassy Paris 2005b). For instance, after the Beslan terrorist attack, Russia continuously insisted on a relationship between Chechen rebels and Al-Qaida and unsuccessfully pushed for transforming the Al-Qaida/Taliban regime into a general counter-terrorism regime (Rosand 2010: 264). Moreover, China tried using the sanctions regime for designating domestic separatists such as the East Turkestan Liberation Organization (US Permanent Mission to the UN 2006a). Consequently, a successful regulatory outcome depends on the ability of the sanctions committee members to effectively scrutinize listing proposals vis-à-vis Council resolutions.

The theoretical expectation is that the postulated causal mechanism is present and works as expected so that functional differentiation in the Al-Qaida/Taliban sanctions regime creates strong demand for substantive and procedural regulation, which in turn have an effect on committee decision-making. While UNSC members have a strong general interest in the counter-terrorism sanctions regime, they have diverging preferences within the regime. Therefore, committee decision-making will likely be subject to coordination problems associated with such decision situations under diverging preferences. Hence, substantive and procedural rules provided by the UNSC or the committee as well as precedents could provide focal points to coordinate behavior. Because UNSC members have a particularly pronounced interest in the regime, at least after 9/11, we would expect that the regulatory density should be particularly high, since the large number of decisions provides substantial demand for rules.

Initially, the UNSC supplied the sanctions committee with very little substantive and procedural rules, presumably because UNSC members did not expect principal decision-making issues ahead. Concerning its main function, the UNSC requested the committee to unspecifically "designate the aircraft and funds or other financial resources" (resolution 1267 (1999), para. 6e) that would be "owned or controlled

directly or indirectly by the Taliban", later complemented with "Usama bin Laden and individuals and entities associated with him" (resolution 1333 (2000), para. 8c), while it already provided that exemptions would be permissible "on a case-by-case basis on the grounds of humanitarian need" (resolution 1267 (1999), para. 4b). With the imposition of a mandatory travel ban, the UNSC shifted the designation criteria to "Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them" (resolution 1390 (2002), para. 2).

6.2 Theoretically-relevant case episodes of committee decision-making

The organization of the Al-Qaida/Taliban sanctions regime created governance issues associated with the separation of rulemaking and rule-application in several instances. The following sections analyze, separately for five case episodes, the specific need for rules, in a second step the consequences associated with rule-making and in a third step, if and how the rules actually affected committee decision-making and the content of decisions.

6.2.1 The absence of substantive and procedural rules on the listing of individuals and entities prompts laissez-faire decision-making

This case episode illustrates that the absence of rules on committee designations prompted a laissez-faire mode of decision-making, which undermined the regime's effectiveness and legitimacy. The initial phase reveals that an underdeveloped listing process caused significant governance issues. Before 2005, committee members had enormous discretion on listing decisions, in particular because there was no definition of who should be listed and designating states were not required to provide reasons for listing proposals. In turn, while the list substantially grew after 9/11, the unconstrained laissez-faire listing undermined the effectiveness and the willingness of the wider UN membership to implement the sanctions regime (Gehring/Dörfler 2013: 574–576; Dörfler/Gehring 2015: 68–70).

Before and immediately after the 9/11 attacks, the governance system lacked reliable and detailed decision criteria for the listing process and operated in a laissez-faire mode. Initially, the listing process was not particularly problematic as the committee exclusively listed high-level and publicly known Taliban leaders, which rather resembled a country-specific diplomatic and financial sanctions regime. Not until six months after resolution 1267 (1999), the committee started to issue a first sanctions list including the Taliban leader Mullar Omar, Ariana Airlines and four Afghan banks including the Afghan Central Bank (SC/6844, SC/6938, SC/6955). In 2001, the committee increasingly resorted to targeted sanctions and listed 30 Taliban ministers and governors (SC/6998). In March 2001, the Council adopted resolution 1333 (2000), which allowed for the listing of "Usama bin Laden and individuals and entities associated with him" (resolution 1333 (2000), para. 8c). While now being able to list individuals not associated to the original target (i.e. Taliban government), the focus remained on the Taliban leaders. Before 9/11, the list comprised of 152 Taliban including ministers, deputy ministers and governors, the seven entities listed earlier and ten individuals and one entity associated with Usama bin Laden, including Aiman Al-Zawahiri and Usama bin Laden himself (SC/7028, SC/7124).

Shortly after 9/11, as the committee was used to target a swiftly increasing number of Al-Qaida associates, many unresolved issues concerning the specific listing procedure became apparent. First, the Council left it open to interpretation, which individuals and entities the committee should regard as "associated with" Al-Qaida and the Taliban. The original designation criteria of association with Usama bin Laden, Al-Qaida and the Taliban were overly vague and provided actors with as much flexibility as possible (Hoffmann 2008: 547; Heupel 2009: 310–311). Second, the governance system did not provide any reference point as to how the merits of a listing proposal should be processed. The Council merely provided that the committee should "update regularly the list (…), on the basis of relevant information provided by Member States and regional organizations" (resolution 1390 (2002), para. 5a, similarly 1333 (2000), para. 16b). Yet, it did not state, if at all and what kind of information should be provided to warrant a listing, which parties should be involved and what information is made available to listed individuals and the public.

As a result, the listing procedure grew problematic because committee members were faced with a decision situation that precluded committee members from rejecting non-eligible listing proposals. First, the absence of clear procedures and reliable decision criteria prevented distinguishing acceptable from non-acceptable decision proposals. This provided committee members with almost unrestricted discretion. Listing decisions ultimately became single politicized issues, while the costs of blocking a listing request through raising concerns about its appropriateness outweighs the benefits as every single decision is of marginal importance to most committee members (Biersteker/Eckert 2006: 29). Committee members navigated with a laissez-faire attitude presuming that designations would be accurate (Gutherie 2005: 511; Rosand 2004: 748–749). As a consequence, committee members virtually accepted all decision proposals "without much ado" (Comras 2010: 95) and without substantially scrutinizing them or later reviewing these decisions (Miller 2003: 47). New listing requests did contain only minimal information on the individual concerned and lacked evidence of the connection to Al-Qaida (Rosand 2004: 748–749; Heupel 2009: 310; Eckert 2008: 223). In fact, a large majority of designations right after 9/11 to early 2002 directly stemmed from US domestic designations (Cramér 2003: 88; Comras 2010: 94; Gurule 2002). In essence, all US listings requests were adopted unchallenged assuming that the US "must have good reasons", even though they were regularly based on classified material (Biersteker 2010: 88; Rosand 2004: 749). In this stage, not even committee members were able to evaluate the evidence that gave rise to a designation and requests for disclosure of confidential information were futile because they would be rejected (Hoffmann 2008: 546). In 2001 alone, the committee designated 123 individuals and entities allegedly associated with Al-Qaida (Cortright 2009: 9–10).

Second, the listing process placed the burden of proof on the objecting states. Under the routinized no-objection procedure applicable to all committee decisions, committee members have to actively object to a decision proposal while acceptance requires no action. In addition, for the committee to collectively consider a listing request, this required a member to actively seek to include the request on the committee agenda (a formal rule was only introduced in the July 2010 guidelines, para. 6j). Furthermore, the short timeframe for raising objections associated with the no-objection procedure, where objections had to be raised within 48 hours, effectively

excluded objections from states that did not have the capacity to quickly acquire disconfirming information, which additionally created a bias towards generally accepting decisions (Kanetake 2008: 147; Biersteker/Eckert 2006: 29; for the procedure see guidelines November 2002, para. 8b).

Two episodes serve to illustrate the broad discretion of committee members as a result of the lack of a reliable "associated with" standard. Some governments designated members of the domestic opposition, separatist or rebel groups that had little connection to Al-Qaida, the Taliban or transnational terrorism to postmark them as international terrorists and to legitimize counter-terrorism activities (Comras 2010: 95; Rosand 2004: 749-750, 761; Hoffmann 2008: 546). In one instance, the committee listed the Eastern Turkestan Islamic Movement, a Chinese separatist group on 11 September 2002. The listing was criticized for its lack of evidence on the groups association with Al-Qaida (Rosand 2004: 752; DeYoung 2002). Four states, including China, the US (allegedly to garner Chinese support for the Iraq war), Kyrgyzstan and Afghanistan had requested the listing, while European committee members "expressed concern" and requested "more evidence" from the US. The skeptical members, asserting that the US documentation merely resembled unproven Chinese allegations admitted that they ultimately "acquiescenced into the United Nations listing only to preserve unity" of the committee (Eckholm 2002; DeYoung 2002). In a second instance, the US along with Russia and other states moved to request the listing of three Chechen entities (SC/7676) and two individuals (SC/7803; SC/7842), allegedly to garner Russian support for the Iraq war. While the US previously considered Chechen rebels as separatists, Russia had for long claimed connections to Al-Qaida (Agence France Presse 2003; La Franiere 2003; Reuters 2003). Finally, the literature notes other instances of political listings (Hoffmann 2008: 546; Schorlemer 2003: 275; Bowring 2010) and ASSMT statements suggest that the committee made dubious listings to serve the political interests of particular states (S/2004/679, para. 34).

The specific organization of the committee's listing function lacking clear decision criteria and procedures caused functional problems for the governance system. First, the committee's laissez-faire attitude undermined the effectiveness of the sanctions regime. UN member states frequently reported "a lack of clarity

concerning the process and procedures for submitting to the Committee names to be added to the list (…). They also noted a lack of established guidelines or evidentiary criteria for determining which names should be added to the list" (S/2002/1050, para. 26). As the ASSMT recognized, the "[p]rovision of a basic definition of terms by the Security Council or the Committee, particularly of 'associated with', would provide States with a better understanding of when to propose names for listing, thereby encouraging new listings" (S/2005/572, para. 27; Germany in S/PV.4798, p.14; Kanetake 2008: 147).

Second, the poor quality of identifiers provided by designating states posed serious obstacles for effectively implementing the travel ban and assets freeze (for Taliban leaders the list merely included the full name and function, see SC/6998, SC/7009, SC/7028, SC/7124; Comras 2010: 95; Rosand 2004: 751; Kanetake 2008: 146–147; Biersteker/Eckert 2006: 29). Already in its first report, the Monitoring Team recognized the issue of "insufficient identifiers" and recommended to list at least basic identifiers including gender, date of birth and nationality (S/2002/541, paras 8, 10-17; S/2002/1050, para. 29). For instance, the Monitoring Team documented that in 2003 still 34 listed individuals only had one single name (S/2003/669, para. 74). Later, the ASSMT expressed serious concern about lacking basic identifiers "which makes enforcement action virtually impossible" (S/2004/679, para. 37). As a consequence, UN member states and domestic financial institutions could not readily identify and freeze funds of targets (S/2007/572, para. 65). In addition, border control officials could not effectively implement travel bans (S/2007/572, para. 121). In fact, often names were not even entered into domestic stop lists (S/2003/1070, paras 95-96). Indeed, lacking identifying information posed the risk of wrongly identifying innocent individuals, in particular when common names were involved (S/2007/677, para. 29; S/2007/137, para. 9-10; Bianchi 2007: 898). Even a Council diplomat stated that he knew instances of "an individual on the sanctions Committee list, which identified him as coming from a certain country and being between the ages of 32 and 35. However, there were thousands of individuals in that particular country with that name and matching that age range" (S/2007/137, pp. 9-10). Even the committee itself has recognized that "65 Member States have addressed the problem of sanctions not being implemented against certain entries (…) because there are insufficient identifiers" (S/2005/761, pp. 2-3; Kanetake 2008: 146–

147). These issues equally affected even Western states (see fn. 86, 87 in Bianchi 2007: 898).

Third, UN member states increasingly regarded the sanctions regime as illegitimate. The High-Level Panel on Threats, Challenges and Change acknowledged that the sanctions regime "suffers from lagging support and implementation" (A/59/565, para. 153). This has been manifested in more than 50 states that had expressed serious concerns about designating new individuals in the absence of clear listing and delisting procedures and the recognition of due process rights for listed individuals (S/2005/761, para. 37; Biersteker/Eckert 2006: 36; Biersteker et al. 2008: 247). Up until 2004, only

> "(…) 21 States have submitted names for inclusion on the List (…). The number of contributors to the List suggests that many States are reluctant to provide names. Issues of due process may be holding some States back, as may concerns over the definition of Taliban and Al-Qaida. In addition, the List has had to avoid accusations of political point scoring, and of subjectivity to any particular agenda" (S/2004/679, para. 34).

This increasingly reflected member states reluctance to implement targeted sanctions against Al-Qaida and undermined the cooperation to implement targeted sanctions in general (Keller/Fischer 2009: 266; Biersteker 2010: 91). On the one hand, Council sanctions regimes depend on the UN member states to forward names to the committee. Therefore, UN sanctions regimes can be significantly undermined when states cease to submit names. In effect, designations in the Al-Qaida sanctions regime were heavily based on information garnered by domestic intelligence services, which exemplified the reliance on states' willingness (Kanetake 2008: 134; Comras 2010: 90). On the other hand, UN member states may have ceased to implement sanctions and as a result undermined the effectiveness of the sanctions regime. This is especially true for Al-Qaida, which as a global phenomenon materialized in many states and thus required global implementation of sanctions (Kanetake 2008: 135; Comras 2010: 90).

The early listing case episode illustrates the lack of regulation of the listing process prompted serious governance issues. In absence of meaningful designation criteria and prescriptions on the listing procedure, committee members adopted a

laissez-faire mode of decision-making simply adopting all decision requests regardless of its merits. The quickly growing sanctions list posed substantial problems for member states implementation and undercut the willingness of UN member states to cooperate.

6.2.2 Substantive and procedural criteria trigger rule-based decision-making on the listing of individuals and entities

This case episode highlights that the effective separation of rulemaking and rule-application on listing decisions provides incentives for rule-based decision-making. When the Council provided new designation criteria and a refined listing procedure in reaction to the laissez-faire decision-making, this allowed other committee members to reject poorly substantiated decision requests even before the creation of the Ombudsperson mechanism. On the Council level, despite the skepticism of permanent members, decision-making on rules confirms the need for adopting consistent decision criteria. On the committee level, the increased regulation transformed the decision situation profoundly towards rule-based decision-making and provided incentives to submit well-reasoned decisions, to scrutinize decision requests vis-à-vis established committee practice and to reject requests that fall short of established standards (Gehring/Dörfler 2013: 576–579; Dörfler/Gehring 2015: 70–72).

For Council members the apparent functional issues and lacking effectiveness could only be resolved through applying extensive pressure on states to comply, a governance tool that is not readily available, or alternatively to restore member states cooperation through rulemaking (Meerpohl 2008: 259–260). In essence, it became apparent that, the sanctions regime required more regulation in terms of consistent, general decision criteria applicable for a whole range of cases, while at the same time not too narrowly limiting the flexibility of the sanctions committee to effectively address the threat. Clear criteria would promote implementation of the sanctions regime. And member states would know better whom they should propose for possible listing to the committee. In fact, designation criteria would provide a yardstick for sanctions targets as to what behavioral change would be required to get the sanctions lifted (Biersteker/Eckert 2006: 38).

As concerns *rulemaking*, in reaction to these inhibiting governance issues resulting from the laissez-faire decision mode, proactive states reluctantly provided generally-applicable substantive and procedural criteria that allowed for distinguishing acceptable from unacceptable decision proposals and significantly restricted the discretion of committee members, although particularly the "US and Britain argued strongly against an evidence-based system of extending these sanctions, on the grounds it would compromise intelligence sources" (Doyle 2004: 86). Slowly, the UNSC members deliberated about suitable rules and adopted more specific decision criteria to remedy regulatory deficits. Moreover, the Council repeatedly requested the committee to refine its committee guidelines to ensure that "fair and clear procedures exist for placing individuals and entities on the Consolidated List and for removing them as well as for granting humanitarian exemptions, and directs the Committee to keep its guidelines under active review in support of these objectives" (resolution 1822 (2008), para. 28, see resolutions 1617 (2005), para. 18; 1730 (2006), para. 2; 1735 (2006), para. 13; 1822 (2008), paras 21, 25, 29; 1904 (2009), paras 7, 17, 35, 41, 42; 1989 (2011), paras 10, 42, 43; 2083 (2012), paras 45, 46; 2161 (2014), paras 24, 25).

First, although the permanent members were skeptical of any regulation that "would make it any harder to designate supporters of terrorism" (US Embassy Paris 2005b), while acknowledging the need "to be careful about allowing governments to misuse the 1267 listing process for other internal purposes" (US Embassy Paris 2005b), the UNSC refined the listing criteria significantly (Wadhams 2005c). While the UNSC has earlier requested designating states to supply the committee with sufficient identifiers and information on the particular association with Al-Qaida (resolution 1526 (2004), para. 17), listing requirements spelled out in resolutions and committee guidelines essentially remained unchanged until 2005. Consequently, it was left unclear which group of individuals would be considered "associated with" Al-Qaida and the Taliban and which not (resolutions 1267 (1999), 1390 (2002), guidelines November 2002, April 2003, December 2005). According to resolution 1617 (2005) adopted on 29 July 2005, individuals and entities

> "(…) participating in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, in conjunction with, under the name of, on behalf of, or in support of; (..) supplying, selling or transferring arms and

> related materiel to; (..) recruiting for; or (..) otherwise supporting acts or activities of (..) Al-Qaida, Usama bin Laden or the Taliban, or any cell, affiliate, splinter group or derivative thereof [and] any undertaking or entity owned or controlled, directly or indirectly, by, or otherwise supporting, such an individual, group, undertaking or entity associated with Al-Qaida, Usama bin Laden or the Taliban shall be eligible for designation" (resolution 1617 (2005), paras 2, 3).

This criterion is consistent and does not include any exceptions that one-sidedly favor any powerful member. Notably, the Council under the constraints of rulemaking adopted generalized criteria that would be applicable to all current and future cases. These criteria specify which particular acts of an individual or an entity would constitute an association with Al-Qaida and which not. The committee incorporated a corresponding rule stipulating that this standard forms the basis of the listing decision into its guidelines (guidelines November 2006, para. 6c). Indeed, the committee hoped that the definition of "associated with" would indeed increase future listing requests (S/2006/22, para. 32).

Second, the UNSC substantially increased the evidentiary requirements for any listings regardless of the submitting state (Prost 2012a: 417). While in early years, evidentiary requirements were unclear and designations could be made just "on the basis of relevant information provided by Member States" (resolution 1390 (2002), para. 5a), designating states must ('shall') now provide a detailed 'statement of case' (resolution 1617 (2005), paras 4, 6). Initially, the Council did not provide a clear definition of what such a statement would need to incorporate, and left the contentious decision on the precise criteria to the committee (S/2006/154, para. 27; S/2006/635, para. 6). In its November 2006 guidelines, the committee defined that the statement of case should incorporate

> "as much detail as possible on the basis(es) for listing (…), including: (1) specific findings demonstrating the association or activities alleged; (2) the nature of the supporting evidence (e.g., intelligence, law enforcement, judicial, media, admissions by subject, etc.) and (3) supporting evidence or documents that can be supplied. States should include details of any connection with a currently listed individual or entity. States should indicate what portion(s) of the statement of case the Committee may publicly release" (guidelines November 2006, para. 6d).

The UNSC subsequently formalized the evidentiary requirements that established a general standard for statements of case (resolution 1735 (2006), para. 5). Redacted versions of these statements of case should be provided to the sanctions targets (resolution 1735 (2006), para. 10; Biersteker 2010: 97). These proscriptions were later slightly changed. States should submit additional information on "relevant court cases and proceedings" on the individuals and designating states should state which portions of the reasons are confidential and should not become subject to public release (rather than which portions could be released as in previous version) (guidelines July 2010, para. 6e). In addition, the designating states would need to supply sufficient identifying information including names, additional names, and aliases, date of birth, place of birth, gender, nationality, residence, addresses, occupation, and travel document numbers. The committee adopted similar requirements for designating entities (guidelines November 2006, para. 6e, refining guidelines November 2002, para. 5c).

Third, the UNSC required that the committee issues publicly available reasons for listing ('narrative summaries') for each current and future listed individual or entity. The narrative summary would be based on the publicly releasable portions of the statement of case and outlined how the individual or entity is associated with Al-Qaida or already listed members thereof and what specific acts gave rise to the listing decision. The ASSMT would assist in making this information available (resolution 1822 (2008), para. 13). While originally, there was no time frame when the narrative summary has to be provided (guidelines December 2008, para. 6h), the committee adopted a rule that the narrative summaries have to be issued on the same day of listing, thus the committee has to elaborate them even before listing can commence (guidelines July 2010, para. 6k).

Fourth, the committee completely standardized the submission of listing proposals. Attached to its guidelines it introduced a 'Cover Sheet for Member State Submissions to the Committee', which states should use to designate individuals or entities. The cover sheets required the designating state to list identifying information for the requested individual (entity) on the basis of the guidelines, the reasons for listing based on the 'associated with'-standard as well as identify a point of contact for further inquiries (Cover sheet see S/2006/750, Annex II, as incorporated in

guidelines November 2006, later published with minor revisions in resolution 1735 (2006), Annex I, Section II). The cover sheets were revised after adoption of resolution 1822 (2008) that requested the committee to incorporate publicly releasable narrative summaries. For this, the ASSMT had proposed new draft seven-page cover sheets, which were more fine-grained and expanded for original script in different languages, physical details for Interpol-UNSC special notices and annexes for details on identification documents (resolution 1822 (2008), para. 14).

Fifth, to allow more time for consideration of listing requests, the duration for responding to listing requests under the no-objection procedure was significantly extended, first from two working days (guidelines November 2002) to five working days (guidelines December 2005) and later to ten working days (guidelines July 2010; Biersteker 2010: 97).

As concerns *rule-application*, the refined substantive listing criteria and procedures had a significant constraining effect on the behavior of committee members, even before the creation of the Office of the Ombudsperson. The committee operated under an increasingly dense set of rules. Designating states had to provide substantial information on the proposed individual or entity, including detailed reasons for why they should be listed and what their concrete association with Al-Qaida, bin Laden or the Taliban were. All these proposals had to be channeled through a detailed procedure. This enabled committee members to evaluate decision proposals against mutually accepted general standards provided by Council resolutions and committee guidelines.

Notably, the provision of detailed substantive and procedural criteria significantly raised the threshold for a successful designation. The designation criteria provide a point of reference for the members of the committee to evaluate listing proposals against the so-called "associated with"-standard (Mimler 2013: 124). The ASSMT noted that the committee practice followed a threshold level of evidence of association with Al-Qaida that was needed for a successful listing and recommended that the committee should reflect this information threshold "commonly required for a successful listing request" into a cover sheet, including the "associated with"-standard to guide member states and the committee in the evaluation of listing request against these standards (S/2006/154, para. 27). States, which have not consulted the

committee guidelines or were unclear about how to submit a request or what kind of information would be required, risked the rejection or significant - sometime indefinite - delay of their listing proposal (S/2006/154, para. 25). As the ASSMT points out, "(…) a successful listing is most often linked to a complete and thorough account of the basis for listing, including the nature of the subject's association with Al-Qaida or the Taliban. The Team believes that successful listings generally are factual, avoid unsupported allegations or broad assumptions and reference supporting evidence or documentation to the greatest extent possible. To speed up the approval process, States might be encouraged to provide the Committee with any available supporting evidence or documentation, such as arrest warrants, existing Interpol notices, indictments or judicial decisions or transcripts" (S/2006/154, para. 27).

These effects have been recognized in an ASSMT report outlining the listing procedure. First, listing proposals from committee members, including the permanent members, and non-committee members are handled in the same manner (S/2007/132, paras 42, 46). Second, while the time to place a successful listing in the beginning of the regime was only a few days, in 2005 and 2006, the committee completed most listings after about three weeks of consideration and thus substantially longer than just the five working-days no-objection procedure. The time spent on listing decisions also depended on the "amount and quality of information provided at the time of submission" (para. 44). Third, listing proposals, including those originating from permanent members, are in fact held up and both permanent and elected members place holds on submissions (para. 46). As an example, the report cites the listing requirements applied by Denmark (Council member in 2005/06) that domestic authorities would scrutinize the listing proposal against the "associated with"-standard and have set the standard of two reliable sources of information corroborating the request's plausibility. Moreover, Denmark has placed "numerous" proposals on hold, some of them for substantial time (pp. 18, Box II).

Close observers also recognized these effects. The Watson report acknowledged that the more detailed listing requirements would prevent further unwarranted listings (Biersteker/Eckert 2006: 7). Known single cases serve illustrate this effect. The report cited three instances where either above threshold information led to successful listings while the lack of information led to rejection. In a first case, the committee

granted a listing request of three individuals accompanied by one general paragraph and a six detailed paragraphs on each individual. In another case, the committee accepted a listing request of six individuals bolstered with 70 pages of documentation including arrest warrants. On the contrary, the committee rejected a listing request, probably by Libya, accompanied by a statement of case that included references to 74 names justified by a single paragraph (Biersteker/Eckert 2006: 26; Secretary of State 2008d).

Finally, the provision of requirements on identifying information required for listing significantly affected the amount of information provided for a successful designation (Biersteker et al. 2008: 235; Biersteker et al. 2005: 22). While the committee had not adopted "minimum criteria for listing, it is unlikely that it would accept a new submission for the listing of an individual which lacked basic identifiers" (S/2008/324, para. 26). The committee had recognized that member states required basic identifiers to effectively implement the sanctions imposed on list entries and had adopted a listing procedure that ensured that "a new listing with inadequate identifiers is virtually unthinkable" (S/2009/502, para. 14).

The second case episode on the committee's listing behavior reveals that functional problems caused by the early laissez-faire decision-mode prompted Council members to substantially regulate committee decision processes under the constraints of rulemaking. The strengthened rules are strikingly consistent and do not particularly favor any powerful member. Within the committee, the increasingly dense set of substantive and procedural criteria allowed committee members to reject unsubstantiated listing requests and transformed the committee listing process towards rule-based decision-making.

6.2.3 Decision blockade on delisting creates demand for establishing meaningful delisting and review procedures

In the sanctions regime's early stage, the complete absence of a delisting procedure coupled with the lack of criteria and evidentiary standards as to when a delisting should commence sparked a committee blockade. Because the existing no-objection procedure was biased against delisting decisions, the functionality of the regime was

threatened, which provoked even skeptical members to adopt consistent rules on delisting. Within the committee, substantive and procedural criteria on delisting enabled committee members to delist unwarranted listings, while additional committee rules reduced the discretion of committee members to prevent undesired delisting decisions by the means of delaying decisions.

The problem took its outset as Sweden requested to delist three Swedish citizens. The episode of the Swedish citizens illustrates exemplarily that the logic of rule-making forces the adoption of a general rule, even if it emanates from a case-specific single-case decision. In addition, it shows that powerful members are skeptical towards such regulation.

On 9 November 2001, the committee had listed three Swedish citizens and two Swedish entities associated with the individuals after they had been previously added to the US sanctions list. The Swedish government, under public pressure, first bilaterally requested information from the US about the reasons leading to listing. The US supplied 27 pages of information mostly comprising news-releases (New Zealand Ministry of Foreign Affairs and Trade 2012: 10; Comras 2010: 97). Swedish security officials inspected the material and established that the evidence could not confirm the accusations and that the individuals were not suspected of any crime (Cramér 2003: 90–91; Gutherie 2005: 512). In addition, the US authorities refused to provide additional evidence to not disclose their counter-terrorism operations (Zagaris 2002; Doyle 2004: 86).

When Sweden requested to delist the individuals, however, the US turned down the request arguing that the individuals had failed to present new disconfirming evidence, which is impossible to present against an unknown charge (Miller 2003: 48). After adoption of resolution 1390 (2002), on 22 January 2002, Sweden as a non-Council member formally requested to undergo a general review of the sanctions list. In addition, Sweden, based on the Council's call on the committee "to promulgate expeditiously such guidelines and criteria" (resolution 1390 (2002), para. 5d) requested the committee to establish guidelines and criteria for the implementation of targeted sanctions (Boustany 2002). France supported the Swedish initiative and proposed to establish "rules of the game" including more specific criteria and a regular review mechanism. However, the US disagreed to be obliged to provide

justification and threshold burden of proof for a listing in order not to compromise its intelligence gathering (Schmemann 2002; Zagaris 2002). In response, Sweden forwarded a de-listing petition on behalf of the three Swedish citizens on 25 January 2002 (Cramér 2003: 92–93). Under the no-objection procedure, the US and the UK objected and Russia placed a hold (Cramér 2003: 93; Zagaris 2002; Ritter 2002). A repeated request by Sweden was turned down on the basis that no new information had been provided (Cramér 2003: 94). When the Swedish authorities bilaterally supplied information to US authorities, the US was willing to evaluate the case and requested more information from the individuals, including their business relations and travels to Somalia and Afghanistan. Finally, the US accepted to delist two of the individuals concerned domestically based on the information provided (Cramér 2003: 94).

The effects of committee governance prompted the committee to engage in selective rulemaking. While the request concerned a single case, many committee members had acknowledged that a potential decision would go beyond the scope of the very case and that a general rule was required (S/2002/1423, para. 11; Lederer 2002). The Council had already recognized the need for the committee to "promulgate expeditiously such guidelines and criteria" required for sanctions implementation (Miller 2003: 49). In parallel, the committee over the course of eight months had negotiated a de-listing procedure, which was later incorporated into the committee guidelines "following several months of intensive consultations" (S/2002/1423, paras 6, 15; Doyle 2004: 86). On 15 August 2002, the committee Chair announced that the committee had decided to establish a new de-listing procedure (SC/7487). The adopted purely intergovernmental procedure stipulates that petitioners should request the government of citizenship or residence to bilaterally negotiate with the designating state based on the justification provided in support of the de-listing request. Either the petitioned state or the designating state (or both) could formally request a de-listing decided by consensus in the committee (SC/7487). Ultimately, every committee member could reject the de-listing without any justification (Gutherie 2005: 514). Under the new provision, Sweden and the US submitted a de-listing request that was finally approved (SC/7490 of 26 August 2002; BBC 2002).

This episode illustrates the distinctive feature of an unregulated committee process. First, the committee lacked a specific procedure for the de-listing of individuals, i.e. who could potentially trigger such a procedure, who is to supply what degree of information and how the final decision is taken (Eriksson 2010: 164). Without such procedure, committee members enjoyed wide-ranging discretion as how to deal with the case under the simple no-objection procedure. Second, the episode highlights that the burden of proof rested with the state requesting de-listing. This state had to convince those committee members, which favored a continued listing, of the listing's inappropriateness (Miller 2003: 48; Gurule 2002; Lynch 2002). Once a listing was accepted, any committee member could prevent the delisting without presenting information that warranted a continued listing. Third, committee members sought to remedy this issue by negotiating a general rule on de-listing and thus became subject to the constraints associated with rulemaking. The fact that negotiations on a purely intergovernmental rule took eight months implies that powerful members were hesitant to adopt such a rule (Lynch 2002).

However, this original purely intergovernmental delisting procedure proved to be inadequate. In this procedure, the state of nationality and residency of a listed individual or entity constituted gatekeepers that the petitioner could not circumvent. In fact, should the petitioned state have rejected to support a delisting request on behalf of the petitioner for any reason, this would have constituted a denial of access to the review procedure (S/2005/83, para. 56). It is not known how many individuals and entities actually requested a delisting via any of the states of nationality/residency as these petitions have never reached the committee stage and accordingly unsuccessful complaints were not registered (Biersteker/Eckert 2006: 36). In fact, the ASSMT emphasized that such reforms would be in the committee's long-term interest:

> "The Team recommends that the guidelines be amended to allow explicitly for the possibility of de-listing when a party demonstrates (…) that it no longer is associated with Al-Qaida or the Taliban (…). Such revisions to the process could help to reduce the possibility of one or more potentially negative court decisions (…). The establishment of this process would cost the Committee nothing. In the end, no de-listings will occur without the consent of all 15 Committee members. Therefore, the Committee would be able to ensure that parties linked to Al-Qaida and the Taliban are not removed from the List

> without sufficient evidence; (…) and States could propose names for listing with the assurance that, if circumstances change, a robust de-listing system is available" (S/2005/83, paras 57-59).

Hesitantly, the committee and the Council engaged in rulemaking to secure the effectiveness of the sanctions regime, however, the negotiations were protracted because permanent members refused any outside review of sanctions designations. In resolution 1617 (2005), the Council requested the committee to continue its work on its guidelines, in particular on listing and delisting issues (para. 18). In January 2006, the committee issued a Note Verbale to member states that it is still undergoing revisions of the guidelines and that it had not yet reached an agreement (guidelines December 2005, see fn. 2 and section 6/8, S/2006/153, para. 45). Though the committee was able to agree to revise the section on listings in November 2006, it was unable to agree on a revised delisting provision (S/2007/59, para. 9). Ultimately, upon a French-US initiative, the issue was taken to the UNSC. The two permanent members had joined forces in opposition to other European countries' preference for an independent ombudsperson, to ensure that a changed delisting process would not restrict committee prerogatives, limit the number of states involved and to secure that the mechanism would work merely as a "mailbox" (US Embassy Paris 2006b).

In 2006, the UNSC created the 'Focal Point for De-listing' (resolution 1730 (2006)) as a UN Secretariat entity and provided direct access to the governance system for petitioners that could now circumvent their potentially unwilling states of nationality or residence and directly forward delisting petitions to the committee. The Focal Point transmits petitions to relevant states and the committee, and serves as a means of communications between committee and petitioner. It was innovative that listed individuals and entities would get direct access to the committee, so that individuals could directly trigger a delisting procedure and force the committee to consider their petition even if their states of nationality/residency did not support such a petition. However, the Focal Point merely functioned as a registrar of petitions and had no independent review or decision-making capacity, a factor that was already criticized at its very adoption (Denmark, Greece, Qatar, S/PV.5599; Kanetake 2008: 162–163).

The organization of the purely intergovernmental and largely unregulated de-listing procedure, at least concerning its decision-making, caused further functional problems for the governance system. On the one hand, while new listings would have to meet the increased listing standards including identifiers and reasons for listing, this does not solve the issues associated with already existing listings that did not have to meet equally high standards previously. In 2008, of the 488 entries almost 270 stemmed from designations made in 2001 alone before any informational requirements had been established (Prost 2012a: 418). Similarly, this also concerned the narrative summaries of these listings (S/2009/502, para. 29). As the ASSMT has repeatedly noted with alarm, these listings would undermine the credibility of the sanctions list and inhibit sincere implementation. In early 2008, almost 90 entries lacked even the most basic identifiers, which made implementation highly ineffective, diverted limited resources of the private sector and border officials to identify not confirmable assets or individuals, risked targeting the wrong individuals or made implementation even completely impossible. In effect, these entries have "limited or no operational value" (S/2008/324, paras 24-25; S/2009/502, para. 13).

On the other hand, de-listings through the intergovernmental de-listing procedure are unlikely to occur. First, UN member states, in particular those not having designated individuals or not having own nationals on the list, would have little interest in taking up any case of marginal importance to them. Those states that were indeed concerned may have been hesitant to advocate a de-listing of an alleged terrorist. Second, the reluctance of the committee to grant de-listing requests discouraged member states to invest into submitting de-listing requests with perceived little chance of succeeding (S/2009/502, para. 16). Third, as most designations stemmed from P5 members, which would have functioned as gatekeepers and objected to the delisting of any of their initial designations if there were no good reasons that would have warranted a delisting. Fourth, an earlier regulation according to which the Secretariat had to circulate all listings that have not been updated for four years has resulted in merely two reviews of 115 entries eligible because a committee member had to actively pursue such a review and provide justification, which posed a high hurdle for cases of limited importance (guidelines November 2006, para. 6i, S/2010/497, para. 13). Even the US recognized that the de-facto "life-sentence" of sanctions applied to individuals undermined Member States

cooperation in submitting new names and that therefore the list is increasingly outdated and "irrelevant to global counter-terrorism actions", while delistings would enhance state cooperation (Khalizad 2008a).

Functionally, these listings are useless and create the demand for substantive and procedural guidance on how to review existing entries, which subjects UNSC members to the logic of rulemaking. In order "to ensure the Consolidated List is as updated and accurate as possible and to confirm that listing remains appropriate", the UNSC requested the committee to undergo a 'comprehensive review' of all 488 list entries separately by 30 June 2010 (resolution 1822 (2008), para. 25; S/2010/497, para. 1). Upon completion of the comprehensive review, the UNSC directed the committee to annually review the list to ensure that every listing is reviewed at least every three years (resolution 1822 (2008), para. 26). The UNSC also tasked the committee to elaborate a specific procedure on how such reviews were conducted (resolution 1822 (2008), paras 25-26). In addition, the Council requested the committee to produce narrative summaries for those entries retained in the review process (US Permanent Mission to the UN 2009b).

After negotiating for more than five months, where specifically the scope of narrative summaries was highly contentious "with the United States and European countries favoring summaries that were more expansive and included information dating from both before and after a name was designated, while Russia preferred a much narrower scope" (US Permanent Mission to the UN 2009b), the committee adopted new guidelines outlining how the review should pursue (guidelines December 2008, para. 9a-e; Biersteker/Eckert 2009: 16). Every trimester, the committee would circulate a subset of names to the designating states and the states of residence/nationality to provide any additional reasons for listing and identifying information. Subsequently, the cases along with the information provided would be circulated to all committee members and the ASSMT for information collection. After this, each case was automatically put on the committee's agenda upon which the committee would amend the original entry. At every stage, any designating state, committee member, or other UN member state could file a de-listing request if it had determined that the listing was no longer warranted (guidelines para. 9a, e; Biersteker/Eckert 2009: 16–17).

The formalized comprehensive review procedure was further elaborated thorough committee practice, where members developed a "standard pattern" for consideration of a single case (S/2010/497, para. 31). After the ASSMT presented the case and newly available information, the committee would discuss the case on the basis of the updated information. In case no committee member or other reviewing state requested a de-listing, the entry remained valid. In case a state (including non-committee members) filed a de-listing request, the Chairman circulated the request under the no-objection procedure. In the evaluation of a single request, the committee applied the decision criteria for new listings, in particular the "associated with" standard and concerning the identifiers, the 'INTERPOL – United Nations Security Council Special Notices' requirements. However, in terms of procedure, a listing was retained even if only one committee member objected to the name's removal (S/2010/497, paras 29-34).

The comprehensive review shows that the regulation has indeed affected committee behavior in the rule-application stage. On the one hand, the considerable number of delistings shows that individual cases were actually carefully scrutinized during committee meetings and that the review has indeed increased the hurdles for retaining an entry. During the comprehensive review, the committee delisted 45 and amended 465 list entries (S/2010/497, para. 43). In essence, the review significantly decreased the number of entries lacking adequate identifiers (S/2012/729, para. 38). On the other hand, the considerable number of rejected de-listing requests shows that committee members still had considerable discretion in dealing with individual requests and that the procedure "tends to be biased against making changes to the list" (Biersteker/Eckert 2009: 22). Even the US acknowledged that "Committee members, including the United States, may be reluctant to remove any names (…). Keeping a name on the list may be seen as the 'safe' option, which avoids the risk of delisting an individual who might still pose a threat. Nevertheless, a willingness to de-list weak designations will show that the Committee is serious about clearing away the inappropriate designations that have tarnished the legitimacy of the regime" (US Permanent Mission to the UN 2009b). The committee accepted 45 out of 161 de-listing requests, while 39 had been rejected, 14 withdrawn and the remaining postponed. Interestingly, most of the rejected de-listing requests stem from permanent members (S/2010/497, para. 25).

During the comprehensive review, the behavior of committee members caused an additional issue of committee governance. Even before the comprehensive review, the committee had encountered the issue of unregulated holds in the no-objection procedure, where some requests remained undecided for years (see like-minded letter S/2012/805, 3.2.), and the need to restrict the use of holds became apparent (Biersteker 2010: 98–99; Biersteker/Eckert 2006: 42). For instance, whereas there was a time limit for responding to delisting petitions, there was no time limit to placing holds in the no-objection procedure. Therefore, delisting petitions could be deliberately diluted through placing a hold (Biersteker/Eckert 2006: 36). This similarly applies to exemption requests (see Swiss exemption request for assets held by Nada pending for three years, Biersteker/Eckert 2006: 32, S/2003/1070, para. 78). As a result, listings of potentially dangerous terrorists and delistings of potentially innocent individuals were undermined by the excessive (ab)use of holds (Biersteker/Eckert 2006: 42). During the comprehensive review, the committee was unable to reach mutually acceptable solutions to a growing number of cases as committee members extensively put decisions on hold, not least to avoid delistings in absence of reliable information (interview with UN member state official, August 2012). In December 2009, 31 issues were on hold and thus indefinitely unresolved unless the hold would be voluntarily released (S/2010/497, para. 93).

To remedy the problem, the UNSC engaged in rulemaking and directed the committee to ensure that committee members may place holds for no longer than six months or after the committee decides to extend the period. In addition, all current pending issues have to be resolved until the end of 2010 (resolution 1904 (2009), paras 41-42). The committee, faced with the request to adopt a generalized rule on the conduct of holds, decided that a pending issue would be automatically deemed approved unless the committee would extend the hold for three additional months (guidelines July 2010, para. 4c). Later, the committee adopted this rule for all committee decision procedures including future ones where the Council has not specifically provided a different time limit (guidelines April 2013, para. 4j, k). Earlier, the committee already decided that holds placed by non-permanent members will cease to have effect after they rotate off the Council (guidelines December 2005, para. 4c).

Consequently, these rules significantly restricted the discretion of committee members under the no-objection procedure. The rule guaranteed that pending issues are finally resolved by positive or negative decisions. Essentially, regulating holds ensured that a hold would now be useful only for the originally intended use, namely to request additional information, rather than to dilute or to avoid unfavorable decisions. The regulation has resulted in a significant reduction of the number of holds during the conclusion of the comprehensive review (S/2010/497, para. 93) after since (interview with UN member state official, New York, March 2012).

In conclusion, this episode of committee governance illustrates that the initial blockade of delistings contributed to functional problems that gave even skeptical Council members incentives to regulate committee decision-making under the constraints of rulemaking. In turn, within the committee, substantive and procedural criteria on delisting provided the opportunity for committee members to delist unwarranted listings, while further self-regulation restricted the committee member's discretion to dilute decisions through excessively using holds.

6.2.4 Decision problems associated with exemptions from targeted sanctions spark the introduction of generally-applicable exemption procedures

The case episode shows that apart from listing and de-listing procedures, the question of how exemptions to the travel ban and the assets freeze were to be processed became a pressing issue that required Council regulation. Single cases triggered the adoption of consistent rules that would allow for granting exemptions to all individuals on the basis of abstract decision criteria and procedures. In terms of rule-application, the committee effectively decided along the lines of these exemption procedures.

Concerning the travel ban, early resolutions already had established exemptions and used language similar to existing sanctions regimes. In resolution 1390 (2002) strengthening the non-mandatory travel restrictions of resolution 1333 (2000), the UNSC stipulated three possible exemptions: "(…) nothing in this paragraph shall oblige any State to deny entry into or require the departure from its territories of its own nationals and this paragraph shall not apply where entry or transit is necessary

for the fulfilment of a judicial process or the Committee determines on a case by case basis only that entry or transit is justified" (resolution 1390 (2002), para. 1b). In the Abdelrazik case, the application of the travel ban exemptions had been particularly contentious. Abdelrazik was prevented to travel from the Canadian embassy in Sudan, where he sought refuge, to Canada on the grounds that this would violate the sanctions imposed on him (Tzanakopoulos 2010). While this was associated with an overly strict reading of the resolutions provisions by Canadian authorities, nevertheless, the ASSMT had recommended providing a "standard procedure" for member states. The ASSMT acknowledged the need for member states to reconcile their obligation towards sanctions implementation with the need to allow travel, in particular for religious purposes (S/2007/677, paras 95-96). In 2008, the committee refined the procedure for granting travel ban exemptions on a case-by-case basis, determined that exemption requests should be accompanied by travel documentation, reasons for travel and details on the funds to cover travel expenses (guidelines December 2008, para. 11 a-k). The rule was consistent and did not favor powerful members. Concerning rule-application, the committee granted the few travel ban exemptions it received (S/2009/502, para. 71, S/2012/729, para. 57).

As regards the assets freeze, single-case issues raised the need for a committee procedure on exemptions. For instance, as the Swedish authorities had continued to issue welfare payments to listed individuals and their families in accordance with domestic law (Cramér 2003: 91), Sweden automatically violated its obligations under UNSC resolutions. However, the original exemption procedure (resolution 1267 (1999), para. 4b) proved inadequate because it did not specify which circumstances would allow for an exemption and under what procedure such a request would be processed (S/2006/154, fn. 19). The Monitoring Team early on recognized that several states reported the issue of releasing funds for the basic needs of listed individuals and informed that governments already had begun to release portions of the frozen funds to satisfy domestic laws (e.g. Switzerland, S/2002/1050, para. 42, S/2002/1338, para. 20).

To remedy the issue, the Council adopted a consistent regulation that does not favor any powerful state. In August 2002, the US circulated a draft resolution which suggested the possibility of unfreezing assets for "payments for foodstuffs, rent or

mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges" (Agence France Presse 2002; Lynch 2002). However, the fact that the procedure has not been incorporated into the November 2002 committee guidelines and that it took over four months of negotiations suggests that the regulation was contentious. On 20 December 2002, the UNSC adopted an exemption procedure (resolution 1452 (2002)). The resolution stipulated that funds may be unfrozen for the payment of basic expenses (foodstuffs, rent, medical treatment, taxes, insurance premiums, public utility charges, legal services, routine holding of financial assets) after notification in absence of a negative committee decision within 48 hours, and other extraordinary expenses after committee approval. In addition, member states are allowed to add financial assets to frozen accounts for interest earning or payments originating from contracts prior to listing (resolution 1452 (2002), paras 1ab, 2ab; Farrall 2007: 380; Gamel 2002). In December 2006, the UNSC extended the period of considering exemptions notifications for basic expenses to three working days (resolution 1735 (2006), paras 15-16; Farrall 2007: 380).

Since the adoption of the rule, the committee "approved virtually all requests for routine and extraordinary expenses" (S/2006/154, para. 57, S/2007/132, para. 47). From adoption of resolution 1452 (2002) until early 2006, 29 exemption requests had been received and 25 of which approved while one was withdrawn and three were pending. Most requests concerned basic expenses related to accommodation and legal representation, while only two requests concerned extraordinary expenses (S/2006/154, 51-60).

Concluding, this case episode demonstrates that issues of committee governance on exemption procedures prompted Council and committee rulemaking. In both cases, single cases triggered the adoption of a rule that allowed for granting exemptions to individuals on the basis of general criteria and procedures. In effect, committee decisions on exemption requests largely followed these procedures.

6.2.5 Decision blockade on Taliban section of the sanctions list prompts the separation of the sanctions regime in 2011

The case episode highlights that the blockade of the decision process on Taliban delistings prompted the separation of the sanctions regime and allowed for rule-based decision-making on Taliban delistings despite the skepticism by a permanent member. In June 2011, the Council decided to separate the Taliban list from the Al-Qaida list and established a separate Taliban sanctions regime including a separate sanctions committee. Political developments in Afghanistan had made it increasingly difficult to treat the Taliban and the Al-Qaida sections differently under the same set of procedural and substantive decision criteria. Thereby, the comprehensive sanctions regime was split into a global Al-Qaida sanctions regime and a country-specific Taliban sanctions regime focused on the Afghan peace process. In terms of rule application on Taliban delistings, the adopted rules bound even powerful members and the Taliban sanctions committee operated in the rule-based decision-making mode.

Besides the symbolic value of demonstrating support for the Afghan peace process, taking the situation in Afghanistan more into account and enhancing the role for the Afghan government, the sanctions regime experienced a procedural issue that underlay the separation: it became increasingly difficult to treat Al-Qaida and Taliban members differently having uniform decision criteria. For instance, whereas the Taliban would need to satisfy specific delisting criteria, where renouncing terrorism is only one aspect, the Al-Qaida regime focused on the prevention of transnational terrorism and would require different criteria (three separate interviews with UN member state official, New York, March 2012, October 2013). In committee practice, this created repeated necessity for justifying the different treatment (interview with UN member state official, New York, March 2012). These issues were reflected in statements by Germany, UK and France favoring the split of the list and refined criteria for both groups, whereas Russia considered the split "unwarranted" (S/PV.6536, pp. 6, 12, 22). The ASSMT noted the increasing discrepancy:

> "While the nature of the Taliban threat may differ from that presented by Al-Qaida, and is certainly different from the combined threat that both groups presented in 2001 when the majority of the Taliban listings occurred, the

> Committee has, since November 2001, treated all listed persons in the same way. The Guidelines (…) make no distinction between the Taliban and Al-Qaida sections of the List. Some have argued that it is now time to treat listed Taliban and listed members of Al-Qaida and its affiliates differently. They suggest that if the Committee dealt with the two parts of the List in isolation from one another, and under different guidelines, there would be greater scope to use the List more creatively in promoting peace and stability in Afghanistan. They argue that the criteria for the removal of Taliban names cannot be identical to those for Al-Qaida" (S/2011/245, para. 16).

In addition, the committee faced a stream of delisting decisions that concerned the Taliban sections of the list. In early 2011, the committee considered delisting requests for more than a third of the 137 Taliban names on the list (consolidated list March 2011, on file with author), while "[t]he Afghan Government complains that the process of de-listing is too uncertain, too slow and too complicated; it is unsure what it has to do to persuade the Committee to agree to a de-listing" (S/2011/245, para. 20). The ASSMT further noted that the committee should first decide on some "basic criteria that would have to be met" before considering these requests and provide a check list for the Afghan government to prepare delisting for those who fulfilled these criteria (para. 23).

The opacity of the decision criteria led to a blockade of the de-listing process on Taliban members. Although the UNSC had called on the committee to list new Taliban, delist individuals that are no longer associated with the Taliban and update the information on listed Taliban (resolution 1735 (2006), paras 24-26), the ASSMT noted that the committee had been highly reluctant to grant delisting requests for Taliban: "It is not easy to get off the List. Judging by its past decisions, the Committee will take a cautious approach to removing any Taliban name without clear indications, over a sustained period, that the individual concerned is fully committed to the democratic principles enshrined in the Afghan Constitution, has renounced violence, and has severed connection with Al-Qaida and its associates" (S/2011/245, para. 14). Internal US sources reveal that the Taliban section had not changed since 2001 with some corrections in 2003, mainly because three permanent members (France, UK, Russia) which designated all Taliban entries in 2001, constituted gatekeepers to delisting. Therefore, 20 delisting requests by Afghanistan concerning Taliban engaged in reconciliation in 2005 and 2006 had been put on hold for over two

years (US Permanent Mission to the UN 2007b). While France and UK were willing to review their stances, the Afghan requests have in particular met outright Russian rejection, but also China and India were hesitant (Riechmann 2011; Agence France Presse 2011c; US Embassy Moscow 2008; Hindustan Times 2011; US Permanent Mission to the UN 2007n; Secretary of State 2007a). When Russia continued to block the Afghan request, the UK observed that "Moscow should not employ a higher burden of proof for de-listing than for listing" (US Permanent Mission to the UN 2007n). The ASSMT informally recommended that for overcoming Russian objections and the "lack of a structured mechanism for removing reconciled or former Taliban", the P5 should first agree on general criteria defining when reconciled Taliban should be delisted and then submit a few cases which satisfy these criteria to show that the mechanism actually works (US Embassy Kabul 2009).

To remedy the issues associated with a comprehensive sanctions regime, with resolutions 1988 (2011) and 1989 (2011), the UNSC separated the sanctions list into two separate lists and created a new sanctions committee to manage the separate Taliban section. To ensure an immediate separation, the former Taliban sections of the comprehensive list were simply moved to the newly created sanctions regime (para. 2). While the UNSC recognized the need to treat the two groups differently in a preambular paragraph, the UNSC directed its newly created 1988 committee to "(…) remove expeditiously individuals and entities (…) that no longer meet the listing criteria (…)" (para. 18) and established delisting criteria especially for the Taliban. The committee should "(…) give due regard to requests for removal of individuals who meet the reconciliation conditions (…), which include the renunciation of violence, no links to international terrorist organizations, including Al-Qaida, or any cell, affiliate, splinter group, or derivative thereof, and respect for the Afghan Constitution, including the rights of women and persons belonging to minorities" (resolution 1988 (2011), para. 18). Accordingly, eligible for listing under this regime are individuals and entities "(a) Participating in the financing, planning, facilitating, preparing or perpetrating of acts (…) on behalf of, or in support of; (b) Supplying, selling or transferring arms and related materiel to; (c) Recruiting for; or (d) Otherwise supporting acts or activities of those designated and other individuals, groups, undertakings and entities associated with the Taliban in constituting a threat to the peace, stability and security of Afghanistan" (resolution 1988 (2011), para. 3).

To align the objectives of the Afghan peace process and the objectives of the sanctions regime, the Council enhanced the role of the Afghan government so that it is regularly consulted, provides information on reconciled individuals and can trigger early review of individuals deemed reconciled (resolution 1988 (2011), paras 18-29). The UK summarized the intention of these amendments:

> "Creating a new and separate regime for Afghanistan (…) sends a clear signal that now is the time for the Taliban to (…) join the political process. It also allows for more specific procedures tailored to (…) Afghanistan. The resolution introduces broader listing criteria and a greater role for the Afghan Government in consultation on listing and de-listing decisions. It also explicitly links de-listing individuals with the Kabul communiqué's reconciliation conditions of renouncing violence, cutting ties with Al-Qaida and accepting the framework of the Afghan Constitution" (S/PV.6557, pp. 5-6).

The separation had significant implications for the sanctions regime. First, the Council created a completely separate sanctions regime including a new sanctions committee and established separate rules. Thereby, the Council significantly decreased the prospects of making package deals across committee boundaries. Second, the two groups can be treated differently under specialized substantive and procedural decision criteria. This alleviates the previous need to justify why the decision criteria could be stretched in particular cases (interview with UN member state official, New York, March 2012). Third, whereas the Ombudsperson procedure was extended in scope (see section 6.3), it was simultaneously restricted to the Al-Qaida regime exclusively, in particular because some permanent members were anxious of establishing a precedent to apply the Ombudsperson outside the Al-Qaida sanctions regime. This was only possible because at the time, none of the Taliban was challenging the listing via the Ombudsperson (interview with UN member state Official, New York, March 2012). As a result, for the Taliban sanctions regime, the Focal Point would receive delisting petitions.

The new rules provided a focal point and restricted the discretion of unwilling committee members to object to warranted Taliban delistings. Before the split, states requesting delisting of Taliban had to provide sufficient evidence to prove that the individuals were no longer associated with terrorism (US Embassy Moscow 2008), while now different criteria would apply. Whereas the committee has removed only

very few Taliban from the original list (Nordland 2011), within one month after the separation of the list, the 1988 committee delisted 15 individuals, all of which were listed before 9/11 (SC/10306; SC/10328). Initially, the Afghan government had requested about 50 delistings before the split and committee members expected resistance from Russia, China and India (Agence France Presse 2011b; Nordland 2011). Because it included a high number of individuals, the committee extended the consideration of the request (Lederer 2011). Since the split, the committee has delisted 32 individuals (S/2012/971, fn. 16; S/2014/402, para. 16), i.e. one-fourth of all entries, despite the initial resistance of a permanent member to any delisting on the Taliban section of the formerly comprehensive list.

This case episode shows that the blockade of Taliban delistings by a permanent member could be alleviated through rulemaking, in this case, by separating the sanctions regime. In fact, the Council developed of two different sets of eligibility criteria (S/2011/790, paras 20-21), both of which confined decision-making within the respective committee to a restricted circle of sanctions targets. In effect, even powerful committee members abided by the adopted rules on Taliban delistings. This transformed the Taliban sanctions committee into the mode of rule-based decision-making.

6.3 The Ombudsperson as institutionalized safeguard of rule-based decision-making

The creation of the Office of the Ombudsperson as a powerful mechanism to review existing listings and its subsequent strengthening fosters committee members adherence to existing rules, however, without systematically changing the incentives of committee members (Gehring/Dörfler 2013: 579–582; Dörfler/Gehring 2015: 72–74).

Although the Focal Point (resolution 1730 (2006)) had granted targeted individuals direct access to the committee, the Focal Point procedure proved inadequate to restore the regime's effectiveness (Biersteker/Eckert 2009: 31–32). First, while Council members recognized the negative impact of original delisting

procedure (France, Denmark, Greece, S/PV.5599), Denmark, Greece and Qatar immediately criticized the Focal Point procedure (S/PV.5599) at its adoption. Like-minded and other states (incl. Switzerland, Sweden, Germany) deplored its intergovernmental character and advocated for an independent and more powerful review mechanism (Kanetake 2008: 161–164; on like-minded initiative see Biersteker/Eckert 2009: 15). Second, in face of various court challenges that undermined sanctions implementation, member states were increasingly in a dilemma between either violating international law or ignoring domestic court decisions (Biersteker/Eckert 2009: 31; Sievers/Daws 2014: 543). Third, besides the criticism by UN actors (Fassbender 2006, Ben Emmerson report, A/67/396), academics (Biersteker/Eckert 2009) and non-governmental organizations (Amnesty International 2008), the ASSMT has called on the Council to adopt procedural reforms that would restore the effectiveness of the regime through adopting a more independent review mechanism before national or regional courts would impose their own standards of review (S/2009/502, para. 42). Finally, between 2007 and 2009, the Focal Point received delisting requests for 18 individuals and 22 entities, the committee only removed three individuals and 17 entities (for Focal Point statistics see section 4.5 above; Security Council Report 2013: 21; Cortright et al. 2009: 4–5).

According to US diplomatic cables, even powerful members recognized that the existing procedure was dysfunctional (also US Embassy London 2009b; US Permanent Mission to the UN 2009d, Biersteker 2013: 10):

> "Bold U.S. action is needed to salvage an irreplaceable UN counter-terrorism tool (…). Yet concerns about the fairness of the (…) procedures (…) combined with errors on the 1267 Committee's List, including inappropriate listings (…) have gravely undermined the regime's credibility and perceived legitimacy. (…) Dead people are still on the Committee's List, de-listing requests get stuck in Committee limbo and designees who want off the List must navigate an opaque, Kafkaesque process. (…) The status quo, however, is not sustainable -- the new UNSCR must continue the regime's trajectory of reform if the regime is to remain viable. (…) Would (…) proposed enhancements satisfy international courts, especially in Europe? Would it stop the slow erosion of this tool's perceived legitimacy? The answers are unknown. These measures, however, combined with a redoubling of U.S. efforts to scrub the 1267 List of inappropriate entries, would go far toward restoring confidence in the regime and heading off more radical and dangerous proposals. (…) New safeguards

> will probably make it harder to designate and/or retain on the list some individuals (…). This will be particularly true in cases where we lack recent and convincing declassified information to justify a designation. (…) Instead of viewing this consolidation as a failure to designate terrorists, the United States should welcome the emergence of a smaller -- but much more credible and better implemented -- List. The preservation of the tool, (…) is far more important than the designation of a handful of marginal figures (…). If we fail to accept this shift, then the 1267 sanctions regime will remain mired in critical debate, fail to evolve in pace with the threat and gradually atrophy as states shy away from using and defending a discredited regime" (Rice 2009c).

In 2009, the UNSC created the Office of the Ombudsperson as independent and impartial entity to review delisting petitions of individuals and entities and adopted a detailed procedure as how the governance system should review such petitions (resolution 1904 (2009)). First, in a two-months 'information gathering' stage, after a formal check and acknowledgement of receipt (para. 1a-e), the Ombudsperson forwards the petition to the committee, designating states, state of nationality/residency, and other relevant states or UN bodies (para. 2a,b), the ASSMT (para. 3a-c), and informs the committee about the progress of information collection (para. 4). Second, in a two-months 'dialogue' stage, the Ombudsperson directly interacts with the petitioner to request additional information and to provide a means of communication between petitioner and states involved (paras 5, 6a-c). Afterwards, the Ombudsperson provides a 'Comprehensive Report' to the committee which should "[s]ummarize (…) all information (…) relevant to the delisting request (…), [d]escribe the Ombudsperson's activities (…) and, [b]ased on an analysis of all the information available to the Ombudsperson and the Ombudsperson's observations, lay out for the Committee the principal arguments concerning the delisting request" (para. 7 a-c). Finally, in the 'Committee discussion and decision' stage, the Ombudsperson presents the report to the committee (paras 8-9) after which the committee will decide upon the request "through its normal decision-making procedures" (para. 10). The committee conveys the decision to the Ombudsperson including "explanatory remarks" in case of a negative decision, which the Ombudsperson conveys to the petitioner (paras 11-14). The Secretary-General appointed former ICTY judge, Kimberly Prost, to serve as the first Ombudsperson.

Although the Ombudsperson did not have the right to introduce a formal delisting recommendation in the early stage, a fact that was widely criticized (e.g. like-minded letter April 2011, B6(b), S/PV.6247, p.3), the procedure already affected committee decision-making. As the sanctions committee is required to formally decide upon the delisting request, the petitioner is relieved from having to seek the support of any particular state to file a de-listing request. In addition, the petition triggers an impartial investigation and contributes to information gathering. Although the Ombudsperson has no formal power in information production and has to rely on states willingness to share critical information, the procedure provides incentives for cooperation. Her information requests are made on basis of a legally-binding Chapter VII authorization and she is mandated to report on which states have provided information and which not. In a comprehensive report, gaps between information requested and information received would become obvious. In addition, in the biannual public reporting to the Security Council, the Ombudsperson would report on non-cooperative states (Prost 2012a: 419). Only six delisting petitions had been filed under this first Ombudsperson procedure, which resulted in four individuals being de-listed, one petition was rejected and one petitioner withdrew (S/2012/49).

To remedy the imminent danger that sanctions will be partially suspended by domestic or regional actors including parliaments[11] and courts based on the lack of due process, and in particular the right to effective remedy, the UNSC revised the Ombudsperson procedure in June 2011 and provided the Ombudsperson with the right to issue formal recommendations (resolution 1989 (2011)). Since then, a delisting recommendation by the Ombudsperson will automatically lift the sanctions measures on the targets after 60 days in case the recommendation is not overturned by a consensus decision within the committee or the decision is referred to the UNSC by a committee member (so-called 'trigger mechanism') (Prost/Wilmshurst 2013: 7). This provides the Ombudsperson with an agenda-setting function.

[11] The Swiss parliament suspended sanctions under specific circumstances in protest of due process infringements (exchange of letters http://assembly.coe.int/CommitteeDocs/2010/07122010_blacklists.pdf [last access: 14 October 2014]; Paulus 2012: 1006).

The heightened role of the Ombudsperson was highly contentious as it touches upon Council prerogatives, which in particular the permanent members were keen to uphold (SCR Forecast June 2011). In particular, the US mission in New York and the administration in Washington DC disagreed about the Ombudsperson's enhanced role. Washington was opposed to the idea, but the US Mission saw the functional advantage of granting the Ombudsperson more power while retaining the right to refer any Ombudsperson delisting request to the UNSC (interview with UN member state official, New York, December 2013).

The Ombudsperson actively intervened in the decision process and fostered the committee members' adherence to mutually accepted rules. In essence, the enhanced Ombudsperson procedure substantially increased the hurdles to overturn an Ombudsperson recommendation (Eckert/Biersteker 2012: 24). In contrast to the previous procedure, a dissenting committee member would have to convince all other members that the Ombudsperson recommendation was inappropriate and demonstrate why the listing was still warranted. As a result, the negative consensus procedure shifted the burden of proof on the state that favors a continued listing. In essence, the Ombudsperson decision almost predetermined the outcome and "Member States (…) have recognized that in a case where the Ombudsperson recommends a delisting, it is extremely unlikely that the Committee will reject that conclusion by consensus" (S/2012/968, para. 12; Paulus 2012: 1007–1008; Mimler 2013: 122–125). There was a "widespread perception among Member States that it would be politically difficult and costly to overturn a decision of the Ombudsperson" (Eckert/Biersteker 2012: 37). In fact, this procedure provides incentives for state cooperation as states seeking to retain listing had to convince the Ombudsperson through supplying information during the process, otherwise delisting would ensue rapidly (S/2012/49, para. 41). Indeed, the procedure has led to increased willingness to share such information (S/2012/968, 14).

The considerable amount of successful de-listing petitions signifies that committee members accept the Ombudsperson procedure including her recommendations, even if designations stemmed from powerful members. Until March 2016, 66 petitions were filed and 63 cases were completed. Upon the recommendation of the Ombudsperson, the committee delisted 43 individuals and 28

entities (S/2015/533, para. 6).[12] One entity was removed as an alias of a listed entity, and one petition has been withdrawn. Moreover, the committee delisted three individuals before completion of the Ombudsperson process (S/2014/553, paras 3-7). While the many successful de-listings have attracted a flow of additional petitions (S/2012/729, para. 30), interestingly, 11 delisting requests have been rejected (one under resolution 1904 (2009)), all of which the Ombudsperson recommended continued listing (S/2013/467, para. 34). While the comprehensive reports are not public, the procedure stipulates that the listing is maintained and the request automatically rejected in case the Ombudsperson recommends continued listing. In the five cases under resolution 1989 (2011), the date of the rejection coincide with the report's presentation, which is different in all other cases (S/2014/553).

Since 2009, the Ombudsperson procedure became increasingly consolidated. All actors associated with the Ombudsperson procedure experienced an increasing number of comprehensive reports, which signifies the standardization of the review procedure (Eckert/Biersteker 2012: 15). The Ombudsperson procedure developed into an integral element so that it "highly unlikely that the Security Council would abolish the Ombudsperson mechanism before it brought the regime as a whole to an end" (S/2012/968, para. 15). This resembles the proponent's view that it will be difficult to scrap the Ombudsperson from the regime if it is well-established and works according to its original objective, i.e. to provide a means for individuals to petition their listings and to ensure that continued listing is warranted (interview with UN member state official, August 2012).

In several cases, delisting ensued although committee members, in particular powerful permanent members had diverging positions (S/2012/968, para. 12), few were almost being overturned while none of these cases have been referred to the UNSC (Eckert/Biersteker 2012: 18).

The exiled Saudi dissident Al-Faqih residing in the UK was delisted on 1 July 2012, as the UK, Germany, South Africa and Guatemala rejected to overturn the Ombudsperson recommendation because the provided information would not warrant

[12] Status of Cases available at: https://www.un.org/sc/suborg/en/sc/ombudsperson/status-of-cases [last access: 15 March 2016].

continued listing. This is remarkable as the large majority of committee members preferred continued listing. Reportedly, the non-member Saudi Arabia had applied heavy pressure on committee members to overturn the decision (Eckert/Biersteker 2012: 20, Charbonneau 2012a, 2012b; BBC 2012). Members who have requested additional information from Saudi Arabia had been supplied with merely six pages in Arabic language that showed little connection of Al-Faqih to Al-Qaida (interview with UN member state official, August 2012). After the decision, Al-Faqih was maintained on the US domestic sanctions list showing the US' diverging preference (BBC 2012).

Also the Kadi case came very close to a Security Council referral (UN official at UN sanctions workshop for incoming members, December 2013). In the past, Kadi had challenged his listing in various countries, before the Al-Qaida committee (interview with UN member state official, New York, March 2012) and finally petitioned his listing via the Ombudsperson. His listing dates back to the time immediately after 9/11 (Gerth/Miller 2001). After reviewing the case for more than 10 months, Kadi was delisted upon an Ombudsperson recommendation, because European members refused to overturn the Ombudsperson recommendation (Charbonneau 2012c; Eckert/Biersteker 2012: 20; interview with UN member state official, New York, December 2013). Simultaneously, a US court maintained that his "listing in the United States was 'amply supported' by both classified and unclassified materials" (S/2012/968, para. 7).

The individual Jim'ale listed directly after 9/11 initiated an Ombudsperson procedure in March 2011. According to his October 2009 narrative summary, he was "closely linked" to Usama bin Laden. As a founder of the Barakaat network he was responsible for Barakaat, which had channeled weapons and employed 1,000 fighters (on file with author). On 21 February 2012, the committee delisted Jim'ale upon an Ombudsperson recommendation (Prost 2012b: 5). On the same day, he was re-listed in the Somalia sanctions regime, which employs identical sanctions measures (Eckert/Biersteker 2012: 19). In the justification for his re-listing, the Somalia sanctions committee stipulates that Jim'ale was the 'chief financier' of Al-Shabaab (SC/10545). The crucial point is that Al-Shabaab was listed on the Somalia sanctions list in 2010, and not on the Al-Qaida/Taliban list, which would require an association

with Al-Qaida. While it was established that Jim'ale had a relationship with Al-Shabaab, the association of Al-Shabaab to Al-Qaida had not been formally established. As a consequence, the individual was listed under the Somalia sanctions regime (interview with UN member state official, August 2012).

In a fourth case, on 3 January 2014, the committee delisted a Kuwaiti individual Al-Jalahmah based on the Ombudsperson recommendation and immediately re-listed the individual on the same day on the basis of new information made available to the committee. Reportedly, a permanent member did not share confidential information concerning the individual's recent association with Al-Qaida with the Ombudsperson during the Ombudsperson process, to not compromise its sources. Accordingly, the Ombudsperson recommended delisting based on the information available to her. As a result, the committee removed the individual from the list based on the recommendation and decided to instantly re-list the individual based on the new information provided (SC/11241).

Interestingly, none of the cases under the Ombudsperson procedure have been referred to the UNSC, although this option is explicitly provided for in Council resolutions and committee guidelines (S/2012/590, para. 30, S/2014/73, para. 32). In fact, in principle the Security Council is still the master of the procedure and retains its role as a general political body (Mimler 2013: 123). However, this decision option comes with severe disincentives. It is difficult to imagine a case where a dissenting committee member would refer a case to the UNSC unless the member would have assurances that it will receive nine votes on a resolution that would challenge the Ombudsperson's judgment. Furthermore, such a move would politicize an issue of limited scope and reveal that the committee is lacking consensus while the dissenting member had to convince the same group of (dissenting) members with potentially sensitive information in a public setting (S/2012/968, para. 12; two separate interviews with UN member state officials, New York, March 2012).

In absence of clear de-listing criteria, the Ombudsperson also engages in rulemaking. The adoption of any type of review mechanism presupposes the adoption of general criteria for how individual cases are to be reviewed and under what circumstances de-listing would ensue. Supporting evidence would then be considered in view of prior accepted standards (Kanetake 2008: 168–169 prior to resolution 1904

(2009)). Consequently, since the UNSC has not provided any specific criteria that the Ombudsperson should apply, the Ombudsperson developed her own negative listing criteria. Accordingly, the Ombudsperson does not verify if the original listing was appropriate. Rather the Ombudsperson would recommend a delisting if no reliable information could be generated that would warrant a listing at the time of consideration (Prost/Wilmshurst 2013: 4–5). Therefore, the listing request has to pass the test of "whether there is sufficient information to provide a reasonable and credible basis for the listing" ('sufficiency, reasonableness, credibility' test, Prost 2011). These criteria provide a benchmark evaluating a delisting request and the information provided. This standard along with the increasing number of petitions received standardizes the de-listing process, while the Ombudsperson still is flexible to take specifics of each case into account (Eckert/Biersteker 2012: 15).

Concerning the effect on listing, the Ombudsperson has actually raised the incentives to provide well-reasoned listing proposals. This reinforced the committee members' incentives to offer as much information as possible to place a successful listing request. Besides, this provides incentives to seriously consider the listing criteria and to adopt listing decisions not based on political considerations, because unreasonable decisions can be easily overturned (S/2012/49, para. 39; S/2012/590, paras 12-13, 31; Prost/Wilmshurst 2013: 5). Diplomats widely recognized the ex-ante effect of a potential future Ombudsperson petition: Designating states seek to provide listing requests that would stand an Ombudsperson procedure (interview with UN member state official, New York, March 2012). First, the information content for new designations was increased, a process that began even before the Ombudsperson. Second, designating states seek to rely more on unclassified material to bolster their cases and securing their sources (interview with UN member state official, New York, December 2013). Third, several frequent designating states including the US, which had been most reluctant to share confidential information in the past, have made so-called 'arrangements' with the Ombudsperson on sharing confidential information (Eckert/Biersteker 2012: 20–21).

As the Ombudsperson de-listing criteria mirror the listing criteria, Council members gain an interest in developing listing criteria that provide a useful basis for the review through the Ombudsperson ex-post. There is evidence that this had indeed

taken place (S/2012/968, para. 13). The Ombudsperson operates under specific opportunity structures that give incentives to not overstretch her competences. The prerogative of every committee member to take any petition to the Council provides incentives to provide only well-reasoned delisting recommendations because the Council could overturn her decisions. In addition, the fact that the Council has to extend her mandate regularly provides incentives to align her activities to the long-term interests of committee members rather than the Ombudsperson's own interests. Recently, the UNSC appointed Catherine Marchi-Uhel, former ICTY Head of Chambers, as new Ombudsperson when the incumbent reached her five year consultant contract limit (S/2015/459).

In sum, the Ombudsperson review mechanism fosters the adherence of the committee members to previously agreed rules without systematically altering the opportunity structure of actors. It complements an increasingly well-advanced governance system that commits even the powerful permanent members to their long-term interest in rule-based governance while preserving their principle privileges in decision-making.

6.4 Chapter summary

The Al-Qaida/Taliban sanctions committee is a confirmatory case for the causal model of committee governance. While Councils members widely supported the Al-Qaida/Taliban sanctions regime as a viable counter-terrorism tool, states' interests within the sanctions regime diverged as states might abuse the sanctions regime to criminalize domestic opposition groups or for other geopolitical interests. As a result of this coordination situation, Al-Qaida/Taliban sanctions committee mainly adopted rule-based decisions and even powerful committee members adhered to rules even if they had diverging case-specific preferences.

The Al-Qaida/Taliban sanctions regime provides confirmatory evidence for the effects of rulemaking, namely that if a group of states delegates implementation decisions to a committee and concentrates on guiding decisions in the subsequent implementation stage, under the constraints of rulemaking, these states adopt consistent substantive and procedural decision criteria. When the UNSC as primary or

the committee as secondary rulemaker elaborate rules to govern committee decision-making, both face the expected effects of rulemaking associated with negotiating a consistent rule-set applicable over a range of cases. The constraints of rulemaking occur systematically and this finding is robust in four case episodes. In the second case episode, the Council members substantially regulated committee listing processes under the constraints of rulemaking to overcome the functional issues associated with the previous laissez-faire decision-making. The strengthened rules are strikingly consistent and do not particularly favor any powerful member. In the case episode on delistings, the initial blockade of delisting requests contributed to functional problems that created incentives for skeptical Council members to regulate committee decision-making under the constraints of rulemaking. In a fourth case episode, issues of committee governance on exemption procedures prompted Council and committee rulemaking. Single cases triggered the adoption of a rule that allowed for granting exemptions to individuals on the basis of general criteria and procedures. In the case episode on the blockade of Taliban delistings by a permanent member, creating a separate Taliban sanctions regime and the associated process of rulemaking created a set of consistent eligibility criteria despite the hesitation of one permanent member for Taliban delistings.

As concerns rule-application, the Al-Qaida/Taliban sanctions committee strongly confirms that if committee members process separate and asymmetric decision proposals of limited scope, they abide by given substantive and procedural rules, even if these rules contradict situation-specific preferences of some members (hypothesis 1). This effect is robust in four case episodes. The second episode of listing decisions shows that the separated processing of single case decisions on listing and the increasingly dense set of substantive and procedural criteria allowed committee members to reject unsubstantiated listing requests and transformed the committee listing process towards rule-based decision-making. In a third case episode, substantive and procedural criteria on delisting allowed committee members to delist unwarranted listings, while further self-regulation restricted the committee member's discretion to dilute decisions through excessively using holds. The fourth case episode on exemptions decisions additionally confirms that committee decisions on exemption requests largely followed established procedures. Remarkably, the last case episode on Taliban delisting decisions shows that even powerful committee

members abided by the adopted rules on Taliban delistings after the committee was split. This transformed the Taliban sanctions committee into the mode of rule-based decision-making.

The Al-Qaida/Taliban sanctions regime yields three additional insights. First, the case episode of listing in the early phase of the sanctions regime provides a striking and unexpected case episode, which highlights that the causal mechanism only becomes relevant, if there is a conflict of interest among committee members and committee members are interested in the decisions taken. After 9/11, the committee listed a high number of individuals and entities suspected of being associated with Al-Qaida neither prompting blockade nor rule-based decision-making. In absence of a conflict of interest and meaningful listing designation criteria, committee members simply adopted all decision requests regardless of their merits in a laissez-faire decision-making mode. However, the rapidly growing sanctions list posed substantial problems for member states implementation and undermined the willingness of non-committee members to cooperate. In theoretical terms, this empirical finding highlights that sanctions committee members' adherence to rules relies on a conflict of interest among Council members and their willingness to scrutinize decisions. Only such a conflict prompts the danger of blockade and the associated incentives for rule-based decision-making. Indeed, this mutual system of control was observed more intensively in later stages of the sanctions regime, which accordingly created the postulated effects of committee governance.

Second, the separation of the Taliban sanctions regime from the Al-Qaida sanctions regime demonstrates that the committee cannot treat two entirely different types of sanctions targets with the same set of substantive decision criteria. When the Taliban increasingly disassociated from Al-Qaida, the committee could no longer meaningfully take any decision on the Taliban section of the sanctions list because decision rules did not reflect their changed characteristics as an Afghan political actor. Accordingly, the Council split the regime and provided separate decision criteria for Taliban members. Strikingly, the analysis has illustrated that the institutional separation of the Al-Qaida and the Taliban regimes provided completely different incentives, although the same group of states is present in the Council and in both committees, because each regime operates under regime-specific rules.

Third, the effects of committee governance occur even in the purely intergovernmental phase before the Council delegated competencies to the Ombudsperson. Although the Ombudsperson mechanism allows for reviewing and potentially overturning decisions of the Security Council, the creation of the Ombudsperson does not fundamentally alter the decision situation of committee members. Nevertheless, committee members gain additional incentives to adopt rule-based and consistent decisions because unwarranted decisions can be quickly overturned. From a theoretical point of view, this episode highlights that independent agents with decision competencies *can* foster rule-based decision-making. However, the fundamental effects of committee governance occur even if the same group of actors retains all decisions for themselves.

The alternative explanation, which holds that decisions produced in UNSC sanctions regimes can be explained by the interest constellation among powerful states, is not supported by empirical evidence. Neither is rulemaking abused by powerful members to insert exceptions into Council or committee rules, nor is there evidence that package deals or side payments provide a meaningful alternative explanation in this case.

Overall, the Al-Qaida/Taliban sanctions regime provides for a well-suited case for analyzing the effects of committee governance within a sanctions regime with a particularly high decision workload. This regime is significant in as much it is the only global targeted sanctions regime countering transnational terrorism, has the largest sanctions list and developed particularly well-advanced procedures. At the same time, it is chiefly infamous among human rights scholars for the infringement of due process guarantees and fundamental rights of listed individuals. It sparked many court decisions and diplomatic initiatives to bring it more in line with fundamental rule of law principles.

7 The Democratic Republic of the Congo Sanctions Committee – Targeted Sanctions and Civil War

In July 2003, concerned about the continuing civil war in the Eastern provinces of the Democratic Republic of the Congo (DRC) resulting in large scale violations of human rights and international humanitarian law and to support the peace process and the disarmament of militias, the Council imposed an arms embargo on armed groups operating in Eastern DRC (resolution 1493 (2003), paras 20, 21). Several months later, the UNSC created the DRC sanctions committee to monitor the arms embargo and to provide recommendations on further measures. Additionally, the UNSC established a Group of Experts to monitor the arms embargo and to provide a list of individuals who violate the arms embargo (resolution 1533 (2004), paras 8-10). In response to the ineffectiveness of these measures, in April 2005, the UNSC expanded the arms embargo to the whole DRC excluding only UN peacekeepers and integrated DRC army units (resolution 1596 (2005), paras 1-2), and adopted targeted sanctions including a travel ban and assets freeze on individuals and entities that violate the arms embargo (paras 13-16), which the committee should designate (Farrall 2007: 410–418). Since then, the UNSC regularly extended, adapted and refined the sanctions measures, which are designed with a sunset clause.[13] Overall, the sanctions committee is one of the mid-active committees and has engaged in modest listing and delisting activities. As of March 2016, the committee has adopted 41 listing decisions on individuals and entities, delisted one deceased individual and rejected eight delisting petitions. The DRC sanctions committee met about three to six times a year, with the exception of the particularly busy early years (up to 17 meetings per year from 2005 to 2007, see Table 1).

The literature on the Security Council's involvement in the DRC conflict predominantly neglects the DRC sanctions regime and in particular the workings of the sanctions committee. The conflict-oriented literature focusses on the origins and history of the conflict and the conflict parties (Prunier 2009; Ngolet 2011; Soderlund

[13] Resolutions 1552 (2004), 1616 (2005), 1649 (2005), 1654 (2006), 1698 (2006), 1768 (2007), 1771 (2007), 1799 (2008), 1804 (2008), 1807 (2008), 1857 (2008), 1896 (2009), 1952 (2010), 2021 (2011), 2076 (2012), 2078 (2012), 2136 (2014), and 2198 (2015).

2012: 1–18; Carayannis 2013) the regional (Cassimon et al. 2013; Reyntjens 2010) and global 'geopolitics' (Gegout 2009; Turner 2013; Curtis 2013), the various peacekeeping missions ranging from ONUC and MONUC to MONUSCO (Doss 2014; Soderlund 2012: 19–39; Tull 2009) and the EU missions (Major 2008; Brummer 2013; Gowan 2011). The *sanctions-oriented literature* exclusively deals with either descriptive accounts of UNSC sanctions measures and mandates of sanctions bodies (Farrall 2007: 411–418; Charron 2013: 80–83, 2011: 73–78; Sievers/Daws 2014: 526; Gambino 2014), the role of the DRC Group of Experts (Boucher 2010: 17–20; Boucher/Holt 2009: 31–34), the significance of sanctions on natural resources (Carisch/Rickard-Martin 2013) or the effectiveness of the sanctions regime (Wallensteen/Grusell 2012). In fact, an analysis of decision-making within the DRC sanctions regime is missing.

Contrasting the existing literature, this chapter empirically traces the consequences of committee governance within the DRC sanctions regime for its decision-making and the content of the decisions taken. This chapter aims at analyzing whether the causal mechanism is present and actually leads to rule-based decision-making here. While one observes less procedural regulation than in other sanctions regimes, nevertheless, functional differentiation between UNSC and its committee created decision problems that are not the result of a conflict between the P3 on the one hand and China and Russia on the other hand, but rather resulting from the diverging interests among the P3, which have stakes in the sanctions regime. The DRC sanctions regime shows that committee members separately process listing requests. In addition, requestors align their decision proposals to relevant decision criteria, while the committee rejects decision proposals which diverge from decision criteria. Furthermore, Rwanda's UNSC membership provides an exemplary case of how UNSC members anticipate a complete blockade of the committee's work and how they deal with potentially obstructionist members through preventive procedural regulation and adoption of early decisions. All things considered, the DRC sanctions regime demonstrates that the theoretical mechanism provides a powerful explanation of decision-making in a case where the conflict is not between the P3 and Russia and China, but between the proactive P3 members.

The DRC sanctions regime complements the analysis with a sanctions regime listing individuals and entities that was way less in the focus of media reporting, policy makers and the human rights discourse as, for instance, the Al-Qaida/Taliban sanctions regime. The major attention to this regime was paid to the peacekeeping mission, one of the largest UN missions, and its EU support missions, while the sanctions regime was relatively marginalized in public attention. Even though this complicates data generation, the DRC sanctions regime provides a comparative perspective that controls for drawing premature and case-specific conclusions about the effects of external pressure gleaned from the particularly well-known and publicly scrutinized Al-Qaida/Taliban sanctions regime, because factors usually associated with the development of the Al-Qaida/Taliban sanctions regime were absent in the DRC sanctions regime.

The chapter proceeds as follows: In the first section, the distribution of interests of the UNSC members, which actors drive the sanctions regime and if we therefore would expect the mechanism to be present are evaluated. In the second section, theoretically-relevant case episodes concerning the major functions of the sanctions regime, namely listing and delisting, are traced to explicate, how regulation is adopted and how the substantive and procedural decision criteria affect committee decision-making. In the third section, the theoretically relevant phase of Rwanda's UNSC membership and how UNSC member preventively regulate committee procedures to overcome anticipated future blockade are analyzed. The final section concludes with a summary of major findings.

7.1 The origins of the Democratic Republic of the Congo sanctions regime

Since the end of the Cold War, the DRC experienced three wars that had their origin in the 1994 Rwandan genocide, the first of which led to the ousting of president Mobutu. In the second Congo war ('Africa's World war', Prunier 2009), involving virtually all neighboring states, Rwanda, Burundi and Uganda, originally allied to the new president Laurent Kabila sought to replace Kabila by backing Congolese rebel militias resulting in one of the deadliest African conflicts prompting the intervention

of other neighbors on the governments side (Angola, Namibia, Zimbabwe). After the unsuccessful 1999 Lusaka Ceasefire Agreement, the conflict parties could finally negotiate a peace deal in the Pretoria Agreement in 2002. The third Congo war began after foreign troops had withdrawn, which left a power vacuum in many areas, in particular in Eastern Congo. This vacuum led to the break out of a conflict made up from latent local, regional and international interlocking conflicts. The inability of the Congolese military to effectively control the territory and successfully reintegrate former combatants resulted in grave violations of international humanitarian law, human rights law, gender-based violence and the abuse of children as soldiers. Up until today, the conflict is further fueled by the illegal exploitation of natural resources financing rebel groups as well as the strong security interests of neighboring states (Soderlund 2012: 1–18; Carayannis 2013; Prunier 2009).

The conflict was and still is characterized by the widespread proliferation of rebel groups, local militias and their splinter groups, which are supported to varying degrees by neighboring states. Roughly four groups of conflict actors can be distinguished. First, adversaries to Eastern neighbors, which include the *Forces Démocratiques de Libération du Rwanda* (FDLR), formed from Rwandan members of the 1994 ousted government seeking regime change in Rwanda, the FDLR splinter group *Ralliement pour l'Unité et la Démocratie* (RUD-Urunana), *Mayi-Mayi* militias, *Front des Nationalistes et Intégrationnistes* (FNI), *Forces de Résistance Patriotique d'Ituri* (FRPI), all adversaries to Rwandan influence in Eastern DRC. In addition, the *Allied Democratic Forces* (ADF), a Ugandan predominately Muslim rebel group, allegedly supported by Sudan, is an adversary of the Ugandan government. The second group of conflict actors are rebel groups supported by Eastern neighbors, which include the *Congrès National pour la Défense du Peuple* (CNDP), adversary of the FDLR and in political opposition to the Kinshasa government, allegedly supported by Rwanda, since 2012, the *Mouvement du 23-Mars* (M23), supported by Rwanda and Uganda to counter the FDLR presence and the *l'Union des patriotes congolais* (UPC) also supported by Rwanda and Uganda. The third group of conflict actors are other relatively independent rebel militias and include the *Forces Armées du People Congolais* (FAPC) and the *Lord Resistance Army* (LRA). The fourth conflict actors is the regular Congolese military *Forces Armées de la République Démocratique du Congo* (FARDC) (For an overview of non-state conflict actors,

Monusco 2015; Enough Project 2015; Integrated Regional Information Networks 2010; Armed Conflict Location & Event Data Project 2014; Prunier 2009).

In response to the situation in the DRC, Western powers, especially France, pushed for an increased UNSC involvement (Annan 2012: 117). Before creating the sanctions regime, the UNSC devoted significant attention to other tools of conflict resolution and had authorized an initial deployment of military observers (resolution 1258 (1999)), which had been transformed into one of the largest UN peacekeeping operations (MONUC, resolution 1279 (1999), later MONUSCO) to monitor the - albeit unsuccessful - Lusaka Ceasefire Agreement. The UNSC expanded the peacekeeping operation in several follow-up resolutions and EU missions provided temporary support (1291 (2000), 1565 (2004), among others; Soderlund 2012: 28–39; Carayannis 2013: 189–194; Major 2008). Additionally, from 2000 to 2003, the UNSC established an "expert panel on the illegal exploitation of natural resources and other forms of wealth" (S/PRST/2000/20, Repertoire 2000-3, Chapter V: 178-180; Rupiya 2005: 5–9). Early on, this panel had suggested imposing targeted sanctions on individuals and entities illegally exploiting natural resources to build and sustain private militias in rebel-held areas (S/2001/1072, para. 160, S/2002/1146, para. 176; Carisch/Rickard-Martin 2013: 5–6).

Even though the level of interest in the DRC sanctions regime was way less pronounced than in other sanctions regimes (for instance, UNSC members did not deliver statements on DRC sanctions, S/PV.4797, S/PV.4926, S/PV.5163), mainly due to UNSC's focus on peacekeeping as conflict resolution tool, Council members had diverging interests. Among the P5, the interests diverged not along usual lines, but in between the states that favored sanctions (mainly France, UK and US), while China and Russia were largely indifferent or cautiously skeptical to sanctions. France, resulting from its historically grown commitment towards francophone African countries positioned itself as the leading permanent member on DRC and usually drafted resolutions under this agenda item (Agence France Presse 2005c; Leopold 2005c). Thus, the French had a traditionally strong interest in the francophone DRC, subsequently contributed military units to stabilize the country (Annan 2012: 117; Doyle 2004: 89), donated significant development aid and tended to be supportive of the DRC government (SC/7057; Gegout 2009: 236). After the failure to stop the

Rwandan genocide, the UK tended to be supportive of the post-genocide anglophone Rwandan government and also supported its former colony Uganda (Doyle 2004: 89; Gegout 2009: 235). The US took a more modest position in between the two (Doyle 2004: 89; Gegout 2009: 236). China, although it was generally skeptical about the use of sanctions and interference into domestic affairs of sovereign countries (see e.g. SC/7057), had resource interests, in particular in the conflict-prone but resource-rich Eastern DRC. In fact, "China's economic involvement in Africa makes it sensitive to instability" (Curtis 2013: 559) so that China tended towards supporting the DRC government, including by providing military aid and contributing to peacekeeping operations (Wuthnow 2013: 33–35 at fn. 144; Holslag 2009; US Embassy Kinshasa 2005b). Russia was mainly indifferent to the conflict, and cautioned not to adopt "hasty decisions based on emotions" (SC/7057). Apart from the permanent members, non-elected European members, including Belgium as former colonial power, were traditionally interested in the conflict and had pushed for a more pronounced Council involvement, including by authorizing EU missions (Major 2008: 15–16; Gegout 2009: 236). Colombia and Mauritius as non-aligned UNSC members were skeptical of imposing sanctions (SC/7057). The DRC itself had urged that the UNSC "must act swiftly" on imposing sanctions (SC/7057).

The fact that the DRC sanctions committee for most of the time had to deal with members, which are neighboring countries of the DRC and directly or indirectly involved in the conflict in one way or another posed a particular issue (Turner 2013: 46–73). This is mainly due to the rotating system of the African non-permanent seats, where usually either a member of the Southern African subgroup or the Central African subgroup is represented (Security Council Report 2014: 6–7; Vreeland/Dreher 2014: 100, 103). For instance, when sanctions were imposed, UNSC members Zimbabwe and Namibia "fully supported the conclusions" of the expert group, the imposition of sanctions and further "preventive measures" on behalf of the DRC government (SC/7057). However, several potentially 'problematic' member states have served in the committee: Angola in 2003-2004, Republic of Congo (sic!) in 2006-2007 (both siding with the DRC government, Cassimon et al. 2013: 57; Carayannis 2013), and Uganda in 2009-2010 (supported DRC rebel militias since the second Congo war, Prunier 2009: 293–294; S/2001/357; S/2012/843). Of particular importance is Rwanda, non-permanent member in 2013-2014, which long-term

‘active role‘ in the conflict has been extensively documented (Security Council Report 2012a: 5; Cassimon et al. 2013: 48–58; Carayannis 2013, Group of Experts reports e.g. S/2012/348.Add1; S/2012/843). Most recently, Angola took a seat for the 2015-2016 tenure (Security Council Report 2014: 4).

As a result of the preference constellation, one would expect that committee governance has a substantial effect on committee decision-making. Although the Council members share an interest in the regime, or at least are indifferent towards it, the proactive P3 have diverging preferences within the sanctions regime and thus are likely to face coordination problems in situations of diverging interests. In such situations, substantive and procedural rules or precedents could provide focal points to coordinate behavior. Indeed, this would lead to expect that decision-making would be rule-based. However, because UNSC members generally have a less articulated interest in the sanctions regime than in other sanctions regimes, in effect, the regulatory density should be lower.

With respect to the sanctions committee’s decision functions on individual targeted sanctions, the Council initially provided a set of substantive decision criteria, while it only fixed rudimentary decision procedures for the committee. The Council broadly mandated the committee to monitor the arms embargo and “to take appropriate action on (…) alleged violations [of the arms embargo]” (resolution 1533 (2004), para. 8). Concerning the substantive decision criteria, with imposing targeted sanctions in resolution 1596 (2005), the Council provided initial listing criteria: Individuals and entities “as acting in violation of the [arms embargo]” (para. 13). Exemptions to the travel ban would be possible in case of “humanitarian need, including religious obligation, or where the Committee concludes that an exemption would further the objectives of the Council’s resolutions” (para. 14). Assets freeze exemptions were available for “basic expenses” upon notification and in absence of a negative committee decision and for “extraordinary expenses” subject to committee approval (para. 16, cf. Al-Qaida/Taliban sanctions regime). Concerning the procedural criteria, the Council decided that the committee should “designate persons and entities (…) and regularly to update its list” (para. 18a), decide upon exemptions (para. 18d), but left the concrete procedures and required level of evidence up to the

committee, which should adopt committee guidelines "as may be necessary to facilitate implementation [of sanctions measures]" (para. 18e).

7.2 Theoretically-relevant case episodes of decision-making

The sanctions regime's original decision-making procedures in several instances created governance issues associated with the separation of rulemaking and rule-application. The following sections first study the particular demand for procedural and substantive rules, second, how rulemaking in the particular cases affected the creation of rules and third, if and how the rules actually changed committee members decision-making.

7.2.1 Listing of individuals and entities – The struggle for decision criteria

Two case episodes highlight the effects of committee governance within the DRC sanctions regime on the committee's listing function. In a first case episode, the proactive members first need procedural rule to process decisions. In a second case episode, the P3's diverging interests give rise to taking designation criteria as focal points. The case episode provides evidence that proactive members engage in a rigorous screening process of each individual request separately to place successful listings before proposing formal designations.

7.2.1.1 The committee requires procedural criteria to adopt its first listing decisions

The episode of initial listing decisions illustrates that the committee could overcome decision blockades by accepting procedural rules as focal points, even if those have been elaborated in a different sanctions committee. In effect, the absence of procedural rules precluded the committee from adopting listing decisions. In response, because the committee could not agree on its own committee guidelines, the committee used an external focal point, namely the relevant section of the Cote d'Ivoire guidelines, as a set of preliminary rules to process listing requests. Afterwards, the proactive committee members aligned their proposals to the substantive and procedural criteria and deliberated about the viability of listing

requests. Finally, the presence of rules prompted committee members to adopt a first set of individuals and entities subject to sanctions in line with the listing criteria.

The resolutions establishing the sanctions regime provided substantive listing criteria, however, left the determination of exact listing procedure to the committee. Resolution 1596 (2005) stipulated that "(…) all persons designated by the Committee as acting in violation of the [arms embargo](…)" should be subject to travel ban and assets freeze, which included the so called "provision of any assistance (…) to all foreign and Congolese armed groups and militias" (1493 (2004), para. 13) and was specified to include "financing and financial assistance related to military activities" (1596 (2005), para. 1). In fact, while this provided a clear listing criterion and the Group of Experts previously had supplied abundant information on such alleged violations that would give rise to early designations, the procedural aspects of how a listing should commence were not yet fully determined. After a final deadline to conflict parties to comply with Council demands, the UNSC extended the sanctions regime for 12 months in July 2005 (resolution 1616 (2005); M2 Presswire 2005; Lederer 2005d) and the P3 started to gather listing proposals.

The absence of a listing procedure initially prevented the committee from adopting listing decisions and the committee first had to engage in a difficult stage of rulemaking to process such listing requests, while no attempts for UNSC listing packages are observable (SCR Forecast November 2005a). The adoption of committee guidelines was particularly problematic. Although the committee came into existence in 2004, it took until 2010 to finally adopt a set of guidelines. The adoption of committee guidelines was discussed several times during these years. However, in absence of a consensus among committee members, no formal decision on the adoption of guidelines could be taken (e.g. S/2008/17, para. 28).

Because the committee failed to agree on its own committee guidelines, in the meantime, to secure the committee's ability to operate, the committee provisionally agreed to use the guidelines of another committee as precedent. Almost four months after the imposition of targeted sanctions, on 9 August 2005, during an informal committee meeting, the committee considered a set of "draft procedures for establishing and maintaining a list of individuals and entities subject to [targeted sanctions]". However, as it was unable to agree on those draft procedures, the

committee approved the "temporary use" of the Côte d'Ivoire committee guidelines "for establishing its list" (S/2006/54, para. 12).

The Cote d'Ivoire sanctions committee guidelines proved a useful precedent as focal point in case of no-agreement for two reasons. First, at the time these guidelines were the most recent and most elaborate of all committees.[14] While other sanctions committees' guidelines were outdated or nonexistent, the Cote d'Ivoire sanctions committee only recently, on 13 June 2005, had established its guidelines. These guidelines were even slightly more detailed than the Al-Qaida/Taliban committee guidelines. Because the Cote d'Ivoire guidelines itself had also been quite contentious and had only been adopted after "extensive discussions during various Committee meetings" (S/2006/55, para. 13), they provided a possibility to overcome conflict by simply accepting the precedent that was achieved by consensus decision of the same group of actors albeit within the Cote d'Ivoire committee. Second, although both committees had different Chairs, however, these usually worked closely together with the committee secretary who likely served both committees at the time and supported the Chair in drafting committee guidelines as sanctions branch secretaries are usually assigned to similar conflict portfolios.[15]

The substantive and procedural criteria conform to the expected consistency requirement associated with rulemaking. The rules do not favor any particular party to the conflict and therefore any actor engaging in violations of the arms embargo could be subject to targeted sanctions. This included the exploitation of natural resources in rebel-held areas if it financed arms trafficking. Specifically, the Cote d'Ivoire guidelines stipulated that the committee decides by consensus on a listing proposal (para. 8a) within two days after receiving the request (para. 9a) under no-objection procedure. Concerning requirements on the form of the listing proposals, the guidelines specified that UN member states have to submit a listing proposal in

[14] As of August 2005, all other committees' guidelines were substantially older or nonexistent: Sierra Leone sanctions committee (10 November 2004), Al-Qaida/Taliban sanctions committee (10 April 2003), Iraq sanctions committee (11 June 2003), Liberia sanctions committee (16 March 2004/31 August 2004). No guidelines: Sudan sanctions committee, Rwanda sanctions committee, Somalia sanctions committee.

[15] A website search using the "Way Back Machine" (http://web.archive.org/) reveals that the secretary served both committees at least in 2007 through 2013.

writing (para. 9a) and should provide a "narrative description of the information that justifies how that individual or entity fits within the [decision criteria]" (para. 8b). Further, designating states should provide "to the greatest extent possible, relevant, specific and up-to-date" identifying information (para. 8c). Finally, a listing decision should be published in a committee press release (para. 8e).

After the committee had agreed on draft procedures for listing, the P3 decided to propose a first list of potential designees (SCR Forecast November 2005a) and sought to pursue those requests that best fit the listing criteria. A US cable from its Kinshasa embassy provides reason to believe that the lists were carefully scrutinized and at least one individual (FARDC Air Force Commander John Numbi) was not further pursued because the US expressed its concerns about listing the individual "unless there is viable evidence (…) demonstrating his involvement with illegal arms trafficking", i.e. the listing criterion and further noted that adding "a government official on the list based on nothing more than rumors would risk undermining the credibility of the sanctions program" (US Embassy Kinshasa 2005a).

The P3 proposed a list of 15 individuals and one entity for designation under no-objection procedure. The listed individuals were all associated with major rebel groups operating in Eastern DRC including Rwandan and/or Ugandan supported groups (Frank Bwambale, RCD-ML leader; Germain Katanga, FRPI chief, now General in FARDC; Jérôme Kakwavu, Former President of UCD/FAPC, now General in FARDC; Kawa Panga Mandro, PUSIC Ex-President; Laurent Nkunda, Former RCD-G General), anti-Rwandan/Ugandan militias (Bosco Ntaganda, UPC/L military commander; Thomas Lubanga, UPC/L President; Sylvestre Mudacumura, FDLR Commander; Ignace Murwanashyaka, FDLR President; Matthieu Ngudjolo, FNI Chief of Staff; Floribert Ngabu, FNI President) and other individuals and entities implicated in violation of the arms embargo (Jules Mutebusi, Former FARDC Deputy Regional Commander; James Nyakuni, weapons trader; Ozia Mazio, President Fédération des enterprises du Congo in Aru territory, providing financial assistance to FAPC rebel group; Douglas Mpano, Manager of Compagnie Aérienne des Grands Lacs, weapons airlifts; Tous pour la Paix et le Developpment, supplying trucks for arms smuggling to RCD-G). The list includes mostly DRC nationals, but also

Rwandan and Ugandan nationals. The committee adopted the list on 1 November 2005.

The successfully adopted requests provide reason to believe that committee members indeed decided according to rules and there is little evidence for a package deal. While a package deal could not principally be ruled out as alternative explanation, it is unlikely. First, the information provided for listing requests resembles the listing criterion of violation of the arms embargo. As for justification, six individuals were designated for direct weapons transfers in violation of the arms embargo, seven individuals were designated for being in direct command of a major rebel group found in violation of the arms embargo and two individuals and one entity were designated for other forms of "provision of assistance" in violating the arms embargo (SC/8546, States News Service 2005c; BBC 2005; Agence France Presse 2005d). Second, for all proposed designations, the listing request includes a short justification as how the individuals are linked to the listing criteria. Third, for seven individuals and the listed entity, arms embargo violations had been previously documented in Group of Expert reports (S/2005/30, S/2005/436, S/2004/551).

In sum, this episode shows that the causal mechanism of functional differentiation prompted the committee to adopt rule-based decisions. Initially, while being supplied with substantive rules, requests by proactive members could not be processed in the absence of procedural rules due to a committee blockade on committee guidelines. To remedy the situation, the committee proceeded through preliminarily adopting the relevant listing section of the Cote d'Ivoire guidelines as precedent. Then, committee members aligned their decision proposals to pre-defined criteria to place successful decision requests. At least one non-conforming request was previously sorted out. All adopted decisions resembled the decision criteria and justifications relied on the decision criteria to build strong cases. Neither a comprehensive package deal nor bribes to change the calculation of dissenting committee members can be observed.

7.2.1.2 Substantive decision rules provide focal points for listing requests among P3

The episode of listing proposals in the wake of the DRC elections 2006 illustrates that new designation criteria served as a focal point to overcome diverging interests

among the powerful P3. On the Council level, defining decision criteria was subject to a consistency requirement. On the committee level, the proactive members wishing to place successful listing requests needed to carefully assemble convincing listing proposals. Although these states principally want sanctions imposed, they rigorously ensure that each proposed individual separately conforms to the designation criteria as well as fulfills informational requirements and evidentiary standards, usually two sources of evidence. Five batches of listing requests demonstrate that functional differentiation within the DRC sanctions regime indeed prompts rule-based decisions through a detailed screening process of proactive members. While below threshold requests are rejected, above threshold requests are accepted. Even powerful states pursuing listing requests have to provide convincing arguments to garner support.

At this stage, generally, none of the Council members vocally opposed the sanctions regime and there was widespread support for the sanctions regime and potential new listings (SCR Forecast July 2006), while the proactive members and neighboring states of DRC had diverging interest. Whereas the UK was leaning towards supporting Rwanda, France tended to support the DRC government (see Doyle 2004). In this phase, Council members UK, France, and Tanzania were particularly concerned about the lack of progress in disarming foreign militias and suggested new targeted sanctions against political and military leaders of such groups (SCR Forecast April 2006a; SCR Forecast June 2006a). Earlier, Burundi, the DRC, Uganda and Rwanda, despite tensions between them, had called upon the UNSC to impose sanctions on rebel leaders (Agence France Presse 2006d, 2006e).

On the Council level, upon a French initiative, in the wake of a Council mission to the Great Lakes region and although the sanctions regime had already been extended well into July, the Council adopted a new resolution to increase pressure on the conflict parties through a refinement of designation criteria (resolution 1649 (2005), Deutsche Presse Agentur 2005; Wasswa 2005). Accordingly, the change in criteria was not sparked by committee decision-making issues. Rather the Council refined designation criteria for overarching political considerations to increase pressure on belligerents and their supporters (Wasswa 2005; Lederer 2005e; SCR Update Report 2005). While the draft resolution had been relatively uncontentious, despite some general skepticism by Algeria, China and Russia on sanctions, the

resolution drafters mainly sought to gain support of the DRC and its neighboring states Burundi, Uganda and Rwanda, which all have direct security interests in the DRC. Without these states' support, sanctions implementation would be patchy at best (SCR Update Report 2005).

Accordingly, in December 2005, the UNSC unanimously extended the applicable listing criteria to "(a) political and military leaders of foreign armed groups operating in the Democratic Republic of the Congo who impede the disarmament and the voluntary repatriation or resettlement of combatants belonging to those groups, [and] (b) political and military leaders of Congolese militias receiving support from outside the Democratic Republic of the Congo and in particular those operating in Ituri, who impede the participation of their combatants in disarmament, demobilization and reintegration processes" (resolution 1649 (2005), para. 2ab). In addition, in July 2006, the UNSC unanimously adopted resolution 1698 (2006) as a regular sanctions extension with some modifications. The Council further extended the listing criteria to include "[p]olitical and military leaders recruiting or using children in armed conflict" and "[i]ndividuals committing serious violations of international law involving the targeting of children in situations of armed conflict, including killing and maiming, sexual violence, abduction and forced displacement" (para. 13) reflecting the Councils thematic agendas on 'Children and Armed Conflict' and the 'Protection of Civilians in Armed Conflict'. Concerning procedural provisions, the Council again delegated the listing decisions following the refined designation criteria to the sanctions committee (Lederer 2005e). The mandate of the Group of Experts was extended to include assisting the committee in designating individuals (para. 5h) and to present more detailed recommendations on preventing illegal exploitation of natural resources (para. 6).

On 13 March 2008, responding to the continued violence from FDLR and other Rwandan armed groups operating in the DRC opposing the Rwandan government, which had not been parties to the Goma agreements of 23 January 2008 (BBC 2008), the UNSC adopted a FDLR-specific resolution 1804 (2008) to signal its support for the peace process (Agence France Presse 2008b; Secretary of State 2008b). The UNSC demanded that all such Rwandan groups lay down their weapons and stop recruiting children and stop all forms of gender-based violence, while reaffirming the

sanctions designation criteria that would also apply to "leaders of the FDLR, ex-FAR/Interahamwe and other Rwandan armed groups" (Xinhua 2008; Agence France Presse 2008b). While there was some haggling over the text of resolution 1804 (2008) and there was no specific listing criterion for the FDLR before (Secretary of State 2008b), the previous designation criteria of "foreign armed groups" or "Congolese militias receiving outside support" would have included the FDLR.

The amended substantive criteria confirm the expected consistency requirement, which should be observable in Council rulemaking under diverging interests. The substantive listing criteria do not one-sidedly favor any of the powerful members or conflict parties. Hence, any political or military leader of principally all conflict parties engaging in violations or refusing to disarm could be designated to the sanctions list. This would include the FDLR, but also a range of other armed groups. As such, the adopted resolution simply acknowledges previously existing listing criteria, which were consolidated into one comprehensive paragraph shortly afterwards (resolution 1807 (2008), para. 13).

All five subsequent listing initiatives until late 2012 prove that proactive members aligned their listing proposals to substantive rules to overcome diverging interests on new designations in a coordination situation and that the committee indeed adopted rule-based decisions. As a first listing initiative, after the adoption of resolution 1649 (2005), the UK and France considered to pursue further listings based on the annexes of groups of experts reports that suggested several names for inclusion into the sanctions list (S/2006/1048, para. 21; Bolton 2006b). In a first rudimentary proposal, the UK circulated a list of 35 potential sanctions targets belonging to several rebel militias in May 2006. 23 individuals were associated with the FDLR, three with the Mayi Mayi, both groups opposed to the Rwandan government, four with the Congolese Revolutionary Movement (MRC) and five other (including members from The Rastas, an FDLR splinter group) (Bolton 2006a).

However, the UK did not further pursue this listing request for two reasons. First, the listing suggestion did not provide sufficient information to place a successful listing. The listing request did not establish why particular individuals should be listed and also lacked any substantive identifying information on the large majority of individuals (Bolton 2006a). Second, the UK, supported by France and the US,

deferred to push for further sanctions until early 2007, mainly because they did not want to destabilize the fragile situation surrounding the 2006 presidential and parliamentary elections (SCR Forecast July 2006; SCR Forecast November 2006a), which sparked subsequent post-electoral violence and allegations of election rigging (Prunier 2009: 309–315). In addition, the major focus of Council members was drawn on securing the election process through the UN stabilization mission (MONUC) and the EU-led peacekeeping mission (EUFOR) (Major 2008) and possible MONUC draw down after the election due to budgetary concerns (SCR Forecast September 2006).

Internally, however, the P3 continued to exchange detailed arguments about who should be listed and for what reasons against the Council designation criteria. All such proposals were based on the condition that a convincing P3 proposal would be elaborated to prevent holds of other P3 members (Bolton 2006a, 2006b). Notably, the UK assembled a new, different and much shorter proposal based on listing recommendations that the Group of Experts issued in their June 2006 report. The UK considered possessing enough evidence on two individuals (Kisoni Kambale, Omar Oria) and two entities (Uganda Commercial Impex (UCI), Machanga Ltd.). Regarding the two individuals, the UK argued that Kisoni "is referred to in the Group's confidential annex as 'an economic proxy of the FNI', and the Group documented his role in militia-financing gold trading (buying from the FNI and selling to UCI) in their report S/2005/30 paras 127-130" (Bolton 2006b). In addition, the UK noted that the Human Rights Watch (HRW) report 'Curse of Gold' "supports these allegations, and also refers to the use of Kisoni's aeroplanes to fly in military supplies to the FNI. It is our view that Kisoni's support of the FNI constitutes 'provision of assistance' to illegal armed groups, in breach of the arms embargo as per [paragraph] 18 of SCR 1493 and [paragraph] 1 of SCR 1596" (Bolton 2006b). In contrast, regarding Omar Oria, the UK only stated that they considered him eligible for designation "for the same reasons as described above for Dr. Kisoni", without provided particular evidence as how Omar Oria fits the listing criteria (Bolton 2006b).

Concerning UCI, the UK believed "the Group of Experts' claim that UCI has bought from gold traders in the DRC who have financed illegal armed groups in the

DRC is well-founded. This was well-documented in the Human Rights Watch (HRW) report 'The Curse of Gold' (2005), as well as in the Groups' own reports. We consider this to constitute 'provision of assistance' to illegal armed groups, in breach of the arms embargo as per [paragraph] 18 of SCR 1493 and [paragraph] 1 of SCR 1596" (Bolton 2006b). Concerning Machanga, the UK maintained that Machanga "is documented as having bought from Ozia Mazio (now himself listed) in the Group of Experts report S/2005/30 (paras 116-126) and from Omar Oria in the HRW 'Curse of Gold' report. Both of these individuals (…) are collaborators and financial backers of Commandant Jerome and his FAPC illegal armed group. Listing Machanga would not only be consistent with listing UCI; it would increase the effectiveness of the measures" (Bolton 2006b).

Simultaneously, the UK argued extensively for not listing two other entities (Hussar/Hussar Services, a British company, and Argor-Hereaus, a Swiss company) and one individual (Modeste Makabuza). The UK stressed that these entities had already changed behavior as a result of public criticism and have cooperated with the Group of Experts (Bolton 2006b). Concerning Modeste Makabuza, while the UK acknowledged that his activities including "provision of assistance to 'men from Nkunda's group' in December 05 to be in breach of the embargo to which targeted sanctions might be an appropriate response (…)", however, objected to listing because "the Group of Experts quotes only one source (Colonel Kasikila) to support this allegation. We believe Kasikila is a fundamentally unreliable source, particularly since he is likely to view Makabuza as a rival in the mining business. We have not been able to confirm this allegation from any other sources ourselves" (Bolton 2006b).

To achieve consensus, the P3 dropped weakly supported or outdated requests (Omar Oria, Modeste Makabuza, Hussar/Hussar and Argor-Hereaus) and further elaborated on those which fitted the decision criteria and were equipped with convincing documentation, while adding two entities associated with the well-founded Kisoni designation (Butembo Airlines, Congocom Tradinghouse), one entity associated with the already listed Douglas Mpano (Great Lakes Business Company) and one FDLR leader (Straton Musoni). Butembo Airlines, directed by Kisoni, was implicated in gold smuggling financing arms embargo violations (S/2005/30, paras

127-130). Congocom Tradinghouse is a gold trading entity owned by Kisoni (van Woudenberg 2005). The cargo airline Great Lakes Business Company, owned by Douglas Mpano, was implicated for using its aircraft to transfer weapons in violation of the arms embargo (S/2005/30, para. 144, S/2006/53, paras 154-155). In addition, the P3 added Straton Musoni as leader of FDLR, and for being associated with the already listed Ignace Murwanashyaka, thus fulfilling the designation criteria of resolution 1649 (2005).

In December 2006, after the DRC elections, the P3 presented separate listing proposals comprising of two individuals and five entities to the sanctions committee (US Permanent Mission to the UN 2007m; SCR Forecast December 2006). In effect, the listing proposals built upon earlier UK and French proposals, while taking the requests with the most reliable identifiers and evidentiary information available bolstered with additional information. Before formally introducing the listing requests, the P3 sought to garner the support of other committee members arguing that the proposed individuals and entities "(…) have been involved in violations of the weapons embargo, in gold trade with rebel groups and have otherwise played a role in undermining stability in the DROC", which were sanctionable acts under relevant UNSC resolutions (US Embassy Beijing 2007b; US Embassy Rome 2007a). Accordingly, two individuals (Straton Musoni, FDLR leader; Kisoni Kambale, gold trading and financing of FNI illegal armed group) and five entities (Uganda Commercial Impex, gold trade linked to militias constituting "provision of assistance" in violation of arms embargo; Machanga Ltd., gold trade linked to militias constituting "provision of assistance" in violation of arms embargo; Butembo Airlines, smuggling of gold and arms; Congocom Tradinghouse, owned by Kisoni and involved in gold trade linked to militias constituting "provision of assistance" in violation of arms embargo; Great Lakes Business Company, transport of arms) were added to the sanctions list on 29 March 2007 (SC/8987, US Department of Treasury 2007).

The listing requests following resolution 1649 (2005) suggest that committee members adopted decisions in line with decision criteria. Again, a package deal is unlikely. First, sanctions proponents explicitly aligned the listing requests to the designation criteria of resolutions 1596 (2004) and 1649 (2005). In addition, besides

FDLR leader Musoni, all of the designated individuals and entities have also been mentioned for violations in earlier Group of Experts reports (S/2005/30; S/2006/53). Then, the P3 dropped weakly supported requests and finally continued to pursue only those requests for which they had well-documented evidence and argued why a particular individual or entity should be included and why others should be dropped.

A second listing initiative, on 15 May 2008, the conflict-party Rwanda made use of the applicable resolutions and sent a list of 19 individuals for designation to the committee (S/2010/93, p.2). These requests solely concerned individuals associated with the FDLR rebel group, an adversary of the Rwandan government and its interests in Eastern DRC. Four Western committee members, US, UK, France and Belgium immediately placed holds on the Rwandan request for two reasons (US State Department 2008d; SCR Forecast May 2010). First, the list lacked even basic identifiers such as date of birth, full (correct) names and aliases as well as additional essential information on location, nationality, passport numbers, among others (US State Department 2008d), which clearly did not conform with the requirements set out in the committee guidelines (see Cote d'Ivoire guidelines Apr 2007, para. 8c; US State Department 2008d). Second, more importantly, the listing requests fell short of explaining how "each individual meets the listing criteria" as outlined in UNSC resolutions (US State Department 2008a, 2008c, 2009). Interestingly, also the UK, which usually tended to be supportive of the Rwandan government and also had pursued FDLR sanctions before (see section 7.2.1.2), placed a hold (US State Department 2009; US Permanent Mission to the UN 2008e).

Although the proactive members including the P3 and Belgium supported new sanctions principally, they carefully screened each individual listing suggestion if each of them individually met both informational and evidentiary requirements of the sanctions committee (US Embassy Paris 2008c). In early August 2008, because the P3 did not support the listing in their current form, the US, in collaboration with France, UK and Belgium took the initiative for new listings including some of the – albeit rudimentary – suggestions from Rwanda. While the UK was the most progressive, the French were hesitant among the P3. Thus, the US expected disagreements even among its "allies" so that it requested the four countries to first keep potential designations within the group of "like-minded Council members" to

avoid "public disagreements in the sanctions committees" (US State Department 2008d). On 5 June 2008, the US circulated a list of eight "primary" targets, for which the "preliminary assessment of the evidence available to the (…)[US Government] indicates that there may be sufficient available information to designate these individuals" (US State Department 2008a) requesting the allies to contribute information to bolster the requests. While dropping one entry (*Anastase Munyandekwe*), for which no information on any current involvement with FDLR was available, the US incorporated incoming information from the UK, France, Belgium and Rwanda on the seven remaining targets into their proposal and added eight other individuals as potential targets, which did not have any identifiers (US State Department 2008c). The US embassy in Kigali was requested to seek to obtain relevant information from Rwandan authorities, explicitly demanding basic identifiers and highlighting that for successful designation "[p]ersons or entities proposed for listing must meet one or more of the listing criteria from operative paragraph 13 of UNSC resolution 1807 (2008)" (US State Department 2008c).

After the information gathering phase, to place successful requests, the proactive members decided to pursue only those listings, which best fulfilled the evidentiary standards and informational requirements. The US, UK, France and Belgium entered into an arguing process on who should be designated and for whom more information would be required to meet committee standards. After France had voiced concerns about listings that only have one information source, in this case Rwanda, the initial list was split into "two potential tiers" according to the quality of information available. While *tier one* constituted six names "for which our governments have significant information", the second tier consisted of eight names, however, with incomplete information (US State Department 2008d). While the UK signaled support for five *tier one* names (US Embassy London 2008b), in October 2008, two names of *tier one* were transferred to *tier two.* The first individual was removed as it had less information compared to other *tier one* requests and for the second individual, while the UK and France requested more information, Belgium believed that "the information available on Hakizimana does not confirm that the individual currently meets the designation criteria" (US Permanent Mission to the UN 2008e). The information available was formed into four listing requests each accompanied with identifying information and a justification for listing ("evidentiary package").

Before submission, the UK insisted that it "strongly prefers" to include explicit references as to which designation criterion applies for each individual and to bolster three of the four requests with further information on the recruitment of child soldiers from Panel of Experts reports (US Embassy London 2009a; Secretary of State 2009a). To finalize *tier one* listings, US, France and UK (Belgium had rotated off the Council), requested Rwanda to re-submit these four names as provided by the US because "[n]on-western governments should be encouraged to propose listings (…)" (US State Department 2009). However, Rwanda refused to re-submit the four names instead of the 19 originally proposed. Accordingly, to process the requests, the US turned its "temporary 'hold'" on Rwanda's request to a "permanent 'block' due to inadequate identifiers in the 2008 submission" and emphasized that "Rwanda will need to provide the required information for any subsequent submissions" (Secretary of State 2009a). The committee accepted the four *tier one* requests on 3 March 2009 (SC/9608).

The P3 repeated the same arguing and screening process for the remaining five FDLR *tier two* names whereby the individuals with little substantiating information were deleted, while other well-documented names were added in reaction to newly reported violations (US Permanent Mission to the UN 2009c). France agreed to designate Gaston Iyamuremye ("Second Vice President of FDLR", US State Department 2008d), Emmanuel Ruzindana ("FDLR Political Commissioner", US State Department 2008d), and Juma Ngilinshuti ("FDLR external relations commissioner", S/2008/43, para. 40) while the UK and US regarded all three individuals as suitable target "provided receipt of more information". There was little support for Apollinaire Hakizimana ("FDLR Defense Commissioner", US State Department 2008d) and Leodomir Mugaragu ("FOCA Chief of Staff", US State Department 2008d). In essence, the P3 agreed that more information was needed on all candidates to submit individually successful proposals (US Permanent Mission to the UN 2009c). Therefore, because information gathering endeavors for Hakizimana, Ruzindana and Ngilinshuti were unsuccessful (for instance, panel of expert reports contained no evidence for violations by these individuals, S/2008/43, S/2008/772, S/2008/773) and the individuals being of a lower rank, these individuals were dropped. On the contrary, the proposal on Iyamuremye was bolstered with additional information stemming from Group of Experts reports that provided evidence that he

is second vice-president of FDLR and core member of the "FDLR military high command" (S/2009/603, para. 91, Annex 16-17). The individual Mugaragu was relatively uncomplicated and augmented with evidence stemming from "open-source and official reporting" (SC/10099), since it was well-established that Mugaragu was FOCA Chief of Staff, the FDLR's armed wing (e.g. see S/2009/603, para. 91, Annex 16-17; International Crisis Group 2009: 34). Further, the P3 prepared a listing request for two additional individuals based on new Group of Experts evidence. Félicien Nsanzubukire, 1st FDLR battalion leader would be implicated for violations of arms embargo citing Group of Experts evidence (S/2009/603, paras 70-71). Felicien Zimurinda, former Congrès national pour la défense du peuple (CNDP) member now integrated into FARDC, would be designated being responsible for deliberate attacks against the civilian population (S/2010/596, paras 135-136; S/2009/603) and as a "notorious perpetrator" of recruiting child soldiers (S/2010/596, paras 135-136; CAC report S/2010/369, para. 65). The P3 co-designated the four individual requests, which the committee adopted accordingly on 1 December 2010 (SC/10099; Agence France Presse 2010).

A third listing initiative, a subsequent Rwandan attempt to list individuals (S/2010/93) reflects the tendency of committee members to carefully scrutinize listing requests and to reject listing proposals that are below a certain threshold level of information so that every request has to rely on at least two or more sources of information. This time building upon a Group of Experts report, which cited FDLR sanctions violations, however, without calling for listings (S/2009/603), Rwanda requested the listing of one RUD-Urunana supporter, a FDLR splinter group, and four FDLR supporters (S/2010/93 of 19 February 2010). The five requests were reasonable to be rejected for four reasons. First, three requests completely lacked sufficient identifying information. Second, the five requests did not contain at least two sources of information as they built solely on the Group of Expert reports that the Group itself did not mean to provide as sanctions designations. Some parts of the listing request consisted of complete sections of the report. Third, the justification, at least for two individuals, relied only on outdated or singular events. For instance, the request to add Lt. Col. Nizeyimana was merely founded on allegations of activities in 1994 (death of Belgian soldiers), 2001 (leader of a small rebel group), 2004 (RUD liaison officer) and an incident of recruitment based on two unidentified interviews

(S/2010/93, pp. 3-4). Fourth, Rwanda further weakened its own listing requested by submitting it in a public letter, as this would give sanctions targets plenty of opportunities for assets flight. Holds have been placed on these listings for further information (SCR Forecast May 2010). To date, none of these names have been listed.

A fourth listing initiative concerned a Ugandan listing request of late 2010, proposing Jamil Mukulu associated with the Allied Democratic Forces (ADF) (SCR Forecast February 2011; What's in Blue 2011b) and shows that even small states can place successful listing requests if they conform to the listing criteria and the evidentiary threshold. ADF is a Ugandan rebel group in opposition to the Ugandan government operating in DRC which seeks introduction of Sharia law in Uganda (Monusco 2015), and is allegedly support by Sudan. Several P5 committee members, including Russia, placed a hold on the request, while Russia lifted its hold in July 2011 (What's in Blue 2011b). On 13 October 2011, after P3 members had assembled additional information and lifted their holds, the individual was listed based on his position as "the military leader of the Allied Democratic Forces (ADF), a foreign armed group operating in the DRC that impedes the disarmament, (…) repatriation or resettlement (…), as described in paragraph 4 (b) of resolution 1857 (2008)" and providing information based on "multiple sources" (SC/10410, SCR Forecast November 2011).

A fifth listing initiative successfully commencing the Mayi Mayi listing of 28 November 2011 shows that even disputed listing criteria of human rights violations can lead to successful listing requests, if requestors are able to assemble strong evidence for their case. Generally, pursuing listings based on human rights violations proved difficult because identities of perpetrators are rarely reliably reported in the quality needed for successful listing (S/2009/253, para. 87; SCR Forecast November 2009; Charron 2011: 101). For that reasons it was disputed among committee members as a suitable listing criterion. Upon a P3 initiative, the committee listed Ntabo Ntaberi Sheka, the "Commander-in-Chief of the political branch of the Mayi Mayi Sheka" as a "political leader of a Congolese armed group" (SC/10461). For justification, the decision notes his responsibility for the "series of attacks in Walikale territory" resulting in mass violation of children's rights (Worsnip 2011; UN

Permanent Missions of France, UK and US 2011). This case of well-documented mass rape (e.g. Worsnip 2011) gained the attention of Margot Wallström, the UN Special Representative of the Secretary-General on Sexual Violence in Conflict, who advocated for Council action on such violations in the DRC, and had been previously condemned in a UNSC presidential press statement (SC/10016; see Carisch/Rickard-Martin 2011: 12).

Concluding, this case episode shows that the listing process in the DRC sanctions regime prompted rule-based decision-making. On the Council level, decision criteria adopted to address the situation in DRC were quite consistent. On the committee level, the episode demonstrates that powerful members could meaningfully use designation criteria and informal rules as focal points to solve problems of diverging interest among themselves. Thereby, the listing process and P3 prescreening of potential listing candidate followed informal rules. First, individuals needed to be either high-level political or military leaders of an armed group or otherwise directly related to one of the Council listing criteria. Second, the request had to be accompanied by evidence, usually from two sources, and sufficient identifying information for implementation. Third, the individual's sanctionable behavior had to be in close temporal relation to the listing. In effect, proactive members consistently sorted out listing proposals that fell below the established standards concerning justification and identifiers. At the same time, well-documented listing proposals were accepted even if they originated from less powerful states.

7.2.2 Delisting procedure prompts rule-based decisions

The episode of the committee's consideration of delisting requests exemplifies that committee members processed such requests in the mode of rule-based decision-making. While committee members accepted to accede to one substantiated delisting request, they refused to delist unsubstantiated delisting requests. At least in one case, objecting committee members felt compelled to justify why the individual warrants continued listing even though there was no obligation to provide new information.

In the early phase of the DRC sanctions committee, there was no need for regulating its delisting procedure, simply because no individual or entity requested delisting and therefore no decision-making issues could have been prompted by individual single cases.[16] Nevertheless, in 2005, when the UNSC added targeted sanctions to the DRC sanctions regime, it was already a standard procedure for sanctions committees, following the Al-Qaida/Taliban precedent, to adopt some form of delisting procedure, because any listing could lead to a potential delisting request. This is a viable strategy to signal to sanctions targets that their behavioral change might eventually result in their delisting. Hence, the UNSC and the committee preventively adopted a rudimentary delisting procedure that was subsequently refined. Because there were no decision proposals, adopting decision packages to circumvent rulemaking was out of question. Rather, after the committee had agreed on a rudimentary and intergovernmental delisting procedure, the UNSC slightly changed the procedure in response to the criticism associated with the lack of due process guarantees for listed individuals that had led to the introduction of the Focal Point procedure (see section 6.2.3 above; Biersteker/Eckert 2006, 2009).

Essentially, concerning substantive decision standards, the UNSC and the committee established purely negative listing criteria in accordance with the Focal Point procedure as a basis for delisting (Kanetake 2008: 162–163; Biersteker/Eckert 2009). Previously, the UNSC merely tasked the committee "regularly to update its list" without saying under which substantive criteria a delisting could commence (resolution 1596 (2005), para. 18a), a formulation reiterated until resolution 1807 (2008, para. 15e). In resolution 1857 (2008), the UNSC for the first time directly ordered the committee to consider delisting requests of individuals and entities "who no longer meet the criteria" (para. 23) for listing and acknowledged the Focal Point procedure (paras 21-22). On the committee level, concerning the procedural criteria, the committee slightly changed initially committee delisting procedure that relied on the member states cooperation in forwarding petitions to the committee, to account

[16] The first 16 listings had been adopted on 1 November 2005 (SC/8546). The Focal Point was introduced in December 2006. Committee annual reports and Security Council Report as well as searches in the WikiLeaks and LexisNexis databases revealed no information on any delistings prior to the Focal Point.

for petitions received via the Focal Point mechanism, although this did not substantially change the intergovernmental decision procedure, because a petition at least required one UN member state to support the request and relied on a consensus committee decision (guidelines April 2007, para. 10). Because all DRC designations had been proposed by at least one permanent member, essentially, the designating states could block any delisting petition. The committee adopted a more refined, but principally unchanged intergovernmental delisting procedure in its own guidelines in August 2010, highlighting the committees mandate to "confirm that [each] listing remains appropriate" (para. 2f). The committee clarified that besides individuals via the Focal Point, every UN member state could principally submit such delisting requests. In addition, the committee provided that petitioners "should explain in the de-listing request why the designation does not or no longer meets the [decision] criteria (…), through countering the reasons for listing as stated in the narrative summary", including supporting documentation (para. 7e).

One can observe that the rules were consistent and did not contain any special exceptions that would benefit only one party as a result of superior bargaining power in the negotiation process. The rules merely stipulated that a listed individual or entity was eligible for delisting if the individual or entity did no longer meet the listing criteria. In turn, the listing criteria itself were consistent and did not contain exceptions that would benefit only a few potentially powerful committee members (see 7.2.1). This is particularly revealing since there were three permanent members that had stakes in the conflict and that had submitted all committee designations, while at the same time their case-specific interests diverged.

Generally, this form of intergovernmental delisting procedure laid the burden of proof on the individual petitioners (or states on their behalf) to provide reasons why they did no longer fulfill the listing criteria on the basis of the narrative summary in accordance with the listing criteria. A delisting application would only be granted by a consensus committee decision, which included the permanent members as designating states. Committee members' adherence to the delisting criteria rested on the ability of other committee members to challenge inconsistent behavior. Nevertheless, any delisting request also applied pressure on designating committee members to deliver evidence showing that the listing is still warranted. Overall,

because so far no state actors have pursued delisting requests, it cannot be said if member states align their delisting proposals to adopted decision criteria.

Even though the delisting procedure was quite restrictive, committee members adhered to the decision criteria adopted. Since its establishment, the committee received nine delisting requests including seven individuals and four entities exclusively via the Focal Point for Delisting (One recent request is currently under consideration). Of these, only one individual was delisted, while all other requests for delisting have been denied because originally designating P3 rejected the respective request (For Focal Point statistics see section 4.5). The requests were made in 2008 (two individuals and four entities), in 2009 (one individual), and one individual each in 2012, 2013 and 2014.[17] Because no direct committee documentation on the delisting requests is available, the analysis pursues with an indirect measurement triangulating committee annual reports, expert panel reports and diplomatic cables.

The first three requests were submitted in December 2007 by the individual Dieudonné Ozia Mazio and the entities Machanga and UCI (S/2008/17, para. 31), all three of which have been rejected on 8 January 2008 (S/2008/832, para. 23). While both companies have been listed less than 12 months earlier, the individual was listed since 2005. At the time of the delisting request, all three were reportedly involved in the trade of natural resources, thereby funding illegal armed groups and indirectly fueling the conflict in Eastern DRC. While sanctions effectively prevented further business activities of Machanga and UCI, the individuals behind these companies sought to bypass the assets freeze using front companies. For instance, the Group of Experts noted that both entities continuously violated relevant provisions of the sanctions regime (Carisch 2014: 41, 63, 71; S/2008/773, para. 92; S/2007/423, para. 137-138; US Permanent Mission to the UN 2008b).

Second, in late April 2008, the committee delisted Kisoni Kambale after a request to Focal Point submitted on his behalf (S/2008/832, para. 24). The delisting was relatively uncontroversial and not commented on by any of the designating states, states of nationality/residency and subsequently not opposed to because the individual

[17] The chronological order was established using WayBackMachine (http://archive.org/web/) on Focal Point statistics website, triangulated with DRC sanctions committee annual reports.

had been previously killed on 5 July 2007 (SC/9312, US Embassy Kinshasa 2007). Nevertheless, there was ample evidence that the individual had not seized his illegal activities in natural resources exploitations financing the FNI rebel militias and that even the circumstances of his killing revealed his illegal activities. Thus, he would not have met the preconditions for delisting (Carisch 2014: 67–68; US Embassy Kinshasa 2007). Logically, the asset freezes imposed on entities (Butembo Airlines, Congocom Trading House) associated with Kambale were maintained based on their separate involvement in violation of the arms embargo as gold smugglers and arms exporter in rebel held territory (SC/9312, US Embassy Kinshasa 2007; S/2008/772, para. 99k, S/2010/596, para. 294).

Third, in early November 2009, the committee denied a request by Ignace Murwanashyaka after at least the US objected (Secretary of State 2009b; S/2009/667, para. 27). Although, the US did not have to provide reasons for its decision, it felt compelled to argue for his continued listing. The US reasoned that as a president of the FDLR, Ignace Murwanashyaka "continues to pose a serious threat to the peace and security of the entire Great Lakes region. (…) Paragraph 5 of resolution 1804 (2008) stressed that the targeted measures that apply to political and military leaders of armed groups operating in the DRC who impede the disarmament and the voluntary repatriation or resettlement of combatants belonging to those groups are applicable to leaders of the FDLR" (Secretary of State 2009b). Furthermore, the US argued that "Ignace Murwanashyaka's Focal Point delisting request does not contest his leadership role in the FDLR" (Secretary of State 2009b). In fact, also the expert panel documented his implication in the civil war at the time (S/2009/253, para. 57; S/2009/603, para. 91).

Fourth, the committee rejected a delisting proposal by Floribert Ngabu in October 2012 (S/2012/979, para. 37). The individual is still listed despite the fact that DRC authorities had arrested him in 2005 and since then Ngabu has been in custody in the DRC as well as an ICC witness in The Hague and has been deported back to the DRC to stand trial. The narrative summary still lists him as president of the Front des Nationalistes et Intégrationnistes (FNI), a foreign armed group operating in the

DRC.[18] Unfortunately, the circumstances of this request are unknown. Finally, the committee rejected two further delisting request concerning both an individual in 2013 (between 18 July and 4 September) and 2014 (between 16 June and 31 December) respectively (S/2014/919, para. 23). However, there is no information available on the individual's names and the merits of their requests.

In conclusion, the effects of committee governance prompted rule based-decisions on delisting. The preemptively adopted substantive and procedural delisting criteria by the Council are consistent. In the application, for those cases, for which sufficient information is available, we observe evidence that committee members engaged in rule-based decision-making in processing delisting requests. Committee members acceded to one warranted delisting request and in another case, a state in favor of the individual's continued listing even felt compelled to justify why the individual still fulfilled the listing criteria although the committee member was not forced to do so.

7.3 Handling the dissenting committee member Rwanda

The episode of Rwanda's 2013-2014 UNSC tenure as a non-permanent member demonstrates how Council members anticipated a future committee deadlock by a relatively weak state that had dissented to sanctions and how Council members tried to sidestep possible decision blockades. Rwanda was elected as a non-permanent Security Council member in October 2012 replacing South Africa following the African rotational system (Security Council Report 2012a: 6–7). Rwanda's election incidentally commenced as Eastern Congo experienced yet another escalation of violence, this time associated with the Rwandan-backed Mouvement du 23 Mars (M23), which quickly advanced its area of influence in Eastern Congo resulting in the capture of the province capital Goma in late 2012 (Carayannis 2013: 196–197).

[18] For Ngabu's narrative summary, see http://www.un.org/sc/committees/1533/CDi021.shtml [26 March 2015].

For Council members interested in the functioning of the DRC sanctions regime, Rwanda's UNSC tenure was highly problematic because Rwanda had strong situation-specific interests in the DRC sanctions regime and had been involved in the conflict in Congo for a long time. Earlier, a report issued by the Group of Experts revealed the involvement of Rwanda (and to a lesser extend of Uganda) in the civil war in Eastern DRC. According to a 2012 report, Rwanda was accused of violating the sanctions regime through providing direct assistance for the creation of M23, including recruitment for and provision of arms to M23, Rwandan military forces direct incursions into Congolese territory and violation of the assets freeze and travel ban of sanctioned individuals, among others (S/2012/348.Add1). A subsequent report outlined similar and further violations by Rwanda, even including the involvement of senior government officials. The report established a direct chain of command from M23 to the Rwandan Defense Minister (S/2012/843). Rwanda repeatedly denied the charges and accused the Group of Experts of misrepresenting Rwanda's role (Rwanda Ministry of Foreign Affairs and Cooperation 2012). While the Group of Experts report was still under committee consideration, it was leaked to the press before the UNSC elections presumably to derail Rwanda's election prospects (Charbonneau/Nichols 2012; Smith 2012).

Consequently, for other committee members it was immediately obvious that, Rwanda as an incoming committee member would be in a privileged position "to halt ongoing investigation and protect its officials from UN sanctions" (Manrique Gil 2012: 5) and would do everything to deflect criticism of its own role. Western diplomats acknowledged that "getting unanimity among the 15 council members on Congo's rebellion would be difficult with Rwanda in the room" (Smith 2012; Security Council Report 2012b). Since all substantive decisions in the committee were adopted under consensus rule, listing proposals including the listing of Rwandan individuals, publication of unfavorable Group of Experts, action on the reports contents, or re-appointment of Group of Experts members would be much more difficult - if not impossible - during Rwanda's tenure (Smith 2012; Security Council Report 2012b; SCR Forecast November 2012; What's in Blue 2012).

Proactive Council members basically had two options, i.e. either adopting sanctions necessary implementation decisions before the beginning of Rwanda's

tenure, or adopting decision rules that would restrict the discretion of committee members for arbitrary behavior, which they both made use of. First, the interested Council members instantly sought to get relevant M23 listing decisions adopted. In a first step, on 20 November 2012, escalating several press statements (including SC/10819, SC/10736, SC/10709) and a Presidential statement (S/PRST/2012/22), the UNSC unanimously adopted resolution 2076 (2012), which nine Council co-sponsors (including France, UK and US, S/PV.6866) specifically tailored to the M23 insurgency (Agence France Presse 2012b; Spielmann 2012). The UNSC acknowledged that members of M23 would in principle be eligible for listing and that the DRC sanctions committee should review possible individuals for listing "as a matter of urgency" (para. 7, Agence France Presse 2012b). Moreover, the UNSC recalled that also external supporters of M23 and sanctions violators may be eligible sanctions targets and that UN member states should provide suitable proposals (para. 8). In addition, the UNSC expressed its concern about "external support" for M23 without specifically naming Rwanda (para. 4). The first French draft initially already included an annex imposing sanctions on two M23 individuals, which was not included in the final resolution (What's in Blue, 20 November 2012).

The rulemaking process paved the way for the committee to adopt a number of last-minute listing decisions before Rwanda became non-permanent member on 1 January 2013. This required significant investments on behalf of designating states to assemble well-reasoned listing proposals under lacking intelligence information in Eastern Congo coupled with severe time constraints (interview with UN member state official, New York, December 2013). The committee listed one military leader of M23 on 13 November 2012 (SC/10812) as well as a M23 military leader and another individual, a sector commander of M23, on 30 November 2012 (SC/10842). Finally, on 31 December 2012 the committee listed five additional individuals associated with the M23 movement, and two entities: the M23 itself and the FDLR, which is an adversary of Rwanda (SC/10876). All listed individuals were military leaders, commanders or political leaders of M23. The justifications for the listings drew extensively on the Group of Expert's evidence, which Rwanda strongly contested, as well as other sources of evidence. Indeed, the committee even directly mentioned the support of the Rwandan Defense Forces for M23 of "general military supplies" in its reasons for listing M23 (SC/10812 of 13.11.2012; SC/10842 of 30.11.2012;

SC/10876 of 31.12.2012), something Rwanda would have prevented at all costs. As a result, because Rwanda was not yet a member, it was disabled from blocking those decisions.

Second, as regards the Group of Experts, which in the past had generated information that frequently led to the reshaping of sanctions measures and whose findings were strongly contested by Rwanda, the Council adopted both rules and implementation decisions before the turn of the membership cycle (Boucher/Holt 2009: 31). Concerning rulemaking, anticipating that Rwanda would likely block future Group of Expert reports, the UNSC entirely removed any discretion of committee members to obstruct the publication of expert group reports. To become a public document, the earlier procedure worded "to report to the Council in writing, through the Committee" (resolution 2021 (2011), para. 4) in practice required the committee to adopt procedural consensus decision forwarding the report to the Council. Instead, on 28 November 2012, the UNSC adopted a French drafted resolution 2078 (2012), which reiterated several provisions of resolution 2076 (2012), and stipulated that the Group of Experts should submit "(…) a written final report before 13 December 2013, (…) and further requests that, after a discussion with the Committee, the Group of Experts submit *to the Council its final report upon termination of the Group's mandate*" (resolution 2078 (2012), para. 5, emphasis added). Thus, regardless of the outcome of the committee's discussion of the report, it would be submitted to the Council as a public document.

Concerning implementation decisions on the Group of Experts, proactive Council members sought to adopt further decisions in anticipation of Rwandan blockade. In turn, on 12 November, after one month of consideration, the committee transferred the latest Group of Experts report to the Council for publication (see S/2012/843). In this context, the committee adopted an unusual press release (SC/10872) that drew UN member states attention to two aspects of the Group of Experts report, one being a call upon rebel groups including M23 to stop recruitment of children, to release all child soldiers and to cease any future recruitment of minors, while the other called upon companies to use due diligence "in order to halt cross-border smuggling and preserve the credibility of the Rwandan tagging scheme" (S/2012/843, para. 243ej). In addition, proactive committee members pushed for the early re-appointment of the

Group of Experts because they anticipated Rwanda's objection (SCR Forecast February 2013). Thus, shortly before the turn of the year on 28 December 2012, the committee adopted the new configuration of the Group of Experts, which the Secretary-General appointed accordingly (S/2012/967, S/2013/1). All three tasks would probably have been challenged by Rwanda.

The change of Council composition provides evidence that proactive Council member's rationale was well-founded in fact since Rwanda immediately sought to undermine the committee's work (What's in Blue 2013a). On the Council level, Rwanda blocked or significantly delayed consensus-based UNSC decisions including presidential press statements (SCR Forecast July 2013a; What's in Blue 2013c; SCR Forecast October 2013) and presidential statements (What's in Blue 2013b). In a particularly contentious case of an M23 attack on UN peacekeepers, despite the fact that in such cases the Council always issued a statement of condemnation and that a rejection would set a dangerous precedent, Rwanda blocked several draft statements until Rwanda achieved to introduce more "balanced" language including calling upon *all* belligerents to cease violence (Charbonneau 2013; SC/11108). Rwanda voiced serious concerns over a UNSC draft resolution extending the DRC sanctions regime and its Group of Experts (What's in Blue 2014a), but finally decided to support it (resolution 2136 (2014); SCR Forecast March 2014; S/PV.7107). Similar haggling commenced over the language of the MONUSCO re-authorization resolution 2147 (2014) (What's in Blue 2014b). On the committee level, during Rwanda's tenure, the committee has not adopted any listing, even when powerful committee members sought listings.[19] In August 2013, Rwanda blocked a US-French proposal to list Vianney Kazarama, M23 military spokesman, and Erick Mboneza, M23 commander. Rwanda was the only committee member to oppose the request arguing that the request was based on "very poor" evidence, even though it was supported by several evidentiary sources including Group of Expert reports (Charbonneau 2013). While in principle the designating states would have had the option to sideline Rwanda through a pursuing Council resolution, they rested with the negative committee decision (SCR Forecast October 2013; S/2013/747, para. 47).

[19] See press releases section of 1533 committee website, available at: http://www.un.org/sc/committees/1533/pressreleases.shtml [24 September 2015].

However, when the Group of Experts submitted its final report during Rwanda's tenure to the committee on 12 December 2013 and accordingly to the Council at the end of its tenure on 1 February 2014 (S/2014/42), the report's publication could no longer be impeded because the committee was no longer competent to decide upon its publication. The report again highlighted Rwanda's involvement in the conflict, its support for M23, recruitment of rebel fighters, arms transfers to the DRC and even direct military involvement (see S/2014/42, paras 28-31). During the consideration of the Group's report in a committee meeting, Rwanda denied the accusations, dispelled the evidence and blocked the implementation of all recommendations made in the report on committee level, including recommendations not connected to Rwanda. While Rwanda challenged the procedure to submit the report directly to the Council, other committee members rejected this claim based on the relevant Council resolution provision adopted earlier (What's in Blue 2014a).

After the end of Rwanda's tenure, the committee pursued a complete overhaul of sanctions list in February 2015 and updated the identifying information and listing justifications for all listings (SC/11772). This would have certainly been more difficult with Rwanda as a committee member.

In sum, the case episode of Rwanda's Council tenure highlights that sanctions committees are indeed subject to the danger of decision blockade, even by relatively small states, and that there are limits to the potentials for rule-based committee governance. Under the restrictive consensus procedure, as long as Rwanda preferred non-agreement over agreement, it had a dominant interest in abiding by its situation-specific interests because rule compliance would have resulted in a negative payoff. At the same time, the proactive members were not at the mercy of the dissenting member. Instead, members interested in the functioning of the sanctions regime pursued a strategy of restricting decisional options for committee members and adopting implementation decisions prior to the dissenting member's Council membership.

7.4 Chapter summary

The DRC sanctions committee provides a confirmatory case for the postulated mechanism of committee governance. Although the Council members shared a common interest in the regime, or at least were indifferent towards it, the proactive P3 had diverging preferences within the sanctions regime and thus faced coordination problems in situations of diverging interests. As expected, committee governance largely prompted rule-based decision-making.

The DRC sanctions committee provides confirmatory evidence for the effects of rulemaking according to which Council members are expected to adopt consistent decision criteria to guide subsequent rule-implementation. As concerns the listing function, initially, the committee could not process listing requests in the absence of procedural criteria so that the committee used the externally produced guidelines of the Cote d'Ivoire committee as a focal point. These rules were consistent and guided the committee listing process in subsequent rule-application. In a second case episode on listing of individuals and entities, the Council adopted consistent decision criteria to address the civil war in DRC by means of targeted sanctions. As concerns the delisting function, the Council adopted substantive and procedural criteria on delisting are consistent and do not include exceptions for powerful members.

The DRC sanctions committee case provides confirmatory evidence for hypothesis 1 according to which committee members facing a stream of separate decision proposals are expected to abide by given substantive and procedural rules, even if these rules contradict situation-specific preferences of some committee members. Within the DRC sanctions committee, two listing episodes support the presumption that procedural and substantive decision criteria were decisive in explaining committee decision-making and the content of decisions taken. Even powerful members acceded into dropping decision requests, where no reliable and up-to-date information from at least two sources could be assembled. Decision requests that fulfilled the informational requirements were successfully presented, even if they stemmed from seemingly weak states. As a result, the substantive decision criteria served as a filter for determining substantiated from unsubstantiated decision requests. Instead, while decision requests usually came in sets, members actually discussed and weighed the merits of each proposed individual separately against

established formal and informal committee standards. In fact, member states invested significant resources over substantial periods of time in assembling convincing listing proposals based on more than one source of information. Effectively, all successfully submitted decision requests fit to the decision criteria, whereas the proponents dropped below threshold requests.

Equally, the delisting episode demonstrates that the effects of committee governance prompted rule based-decisions on committee delisting decisions and provide confirmatory evidence for the causal mechanism. The committee delisting decisions on cases with sufficient documentation provide evidence that committee members processed delisting requests in a rule-based fashion. Committee members acceded to one delisting request that fit to the rules and in a second case, a state favoring the petitioner's continued listing justified why the individual warranted continued listing. For other rejected delisting requests, information alleging the continued activities of petitioners suggests rule-based decision-making on these cases.

The case episode of Rwanda's UNSC membership illustrates that the effects of committee governance do not occur, if at least one committee member favors blockade over a coordinated solution. Because rule-based solutions are in fact situated outside the win-set of one single committee member, Rwanda cannot be bound by substantive rules because blockade is Rwanda's preferred outcome. Essentially, Rwanda had not originally consented to sanctions as it had not been a Council member when sanctions were imposed. However, the episode of Rwanda's tenure also shows that proactive member states have opportunities to cope with an uncompromising committee member through restricting the discretion of individual committee members to block decisions, for instance on expert panel reports, and adopting early implementation decisions.

Apart from the Rwanda case episode, the alternative explanation, which holds that decision-making and the content of the decisions taken can be sufficiently well explained by the interest constellation of powerful members, cannot convincingly explain observed patterns of decision-making. On the Council level, one cannot observe that powerful members pushed for or even achieved exemption provisions that would have one-sidedly favored any of the members, but rather one observes

quite consistent decision criteria. On the committee level, one cannot observe package deals.

The DRC sanctions committee complements the analysis of committee governance with a case that has gained less attention, public scrutiny and due process criticism as the Al-Qaida/Taliban sanctions regime or other country-specific regimes. While this makes data generation more demanding, the DRC sanctions regime enriches the analysis through controlling for alternative empirical explanations drawn from targeted sanctions regimes subject to due process criticism as aspects usually associated with the evolution of such sanctions regimes cannot be observed here.

8 The Sudan Sanctions Committee – UN(Administrating) Targeted Sanctions

After the onset of the Darfur conflict in early 2003, the Security Council's sanctions regime started only in 2004 when it first imposed an arms embargo (resolution 1556 (2004)). Resolution 1591 (2005) expanded the sanctions with targeted individual sanctions, including a travel ban and assets freeze. A newly created sanctions committee should designate potential sanctions targets. Additionally, the UNSC established a Panel of Experts to monitor the arms embargo and targeted sanctions as well as to provide recommendations for improved sanctions implementation. Since the sanctions committee was unable to designate individuals, the UNSC designated four individuals through adopting a package deal in resolution 1672 (2006). While the Council took relatively far-reaching decisions on peacekeeping (resolution 1769 (2007)) and on accountability including the International Commission of Inquiry (resolution 1564 (2004)) and the referral of Darfur to the International Criminal Court (ICC) (resolution 1593 (2006)), the sanctions regime only has been insignificantly altered in substance, in particular because there had not been any further designations. Despite its inability to adopt decisions, the committee is among the mid-active committees with an average of eight meetings per year, particularly active in the beginning (16 meetings in 2005), with a slight downward trend since 2011 (see Table 1).

There is a large body of literature on the Darfur conflict, yet the literature mostly sidelines UNSC sanctions governance on Sudan, mainly because of the shared view that there are no such sanctions or that those sanctions are completely dysfunctional. The conflict-oriented literature predominantly focuses on the conflict's roots (Cockett 2010; Daly 2007), the warring parties (Flint 2007; Haggar 2007), the humanitarian consequences (Totten/Markusen 2006; Daly 2007), the civil society and media campaigns (Murphy 2007; Hamilton/Hazlett 2007; Grzyb 2010) or the inadequate international response (Traub 2010; Prendergast/Sullivan 2008; Totten 2010). The Council's response to Darfur also gained major attention in the debate about a 'responsibility to protect', however, with providing little insights into why the sanctions regime is dysfunctional (Badescu/Bergholm 2009; Williams/Bellamy 2005; Lanz 2011). Many studies particularly draw attention to the reasons for the Council's

failure in Darfur (MacKinnon 2010) and highlight the decisive role of China (Wuthnow 2013, 2010; Large 2008; Holslag 2008; Taylor 2010) and other permanent members (Stedjan/Thomas-Jensen 2010; Williams 2010; Charbonneau 2010). The sanctions-oriented literature either primarily displays the Sudan (Darfur) sanctions regime as a failure and does not further analyze, why it is dysfunctional in contrast to other regimes or provides descriptive narratives of sanctions bodies' mandates and Council sanctions measures (Farrall 2007: 430–439; Charron 2013: 80–83; Sievers/Daws 2014: 527). Above all, an empirical-analytical account for the blockade of the Sudan sanctions regime vis-à-vis the rule-based sanctions governance in many other UNSC sanctions regimes is missing.

The chapter analyzes if and how committee governance affects decision-making and the content of the decisions taken within the Sudan sanctions regime. On the Council level, committee decision-making issues are not resolved through providing generalized decision criteria and procedural prescriptions, mainly because at least one permanent member rejects imposing sanctions on Sudan. On the committee level, this leads to a decision blockade. Neither is the blockade resolved through selective self-regulation, nor is there a sufficient decision-making routine that provides focal points. Instead the Council circumvents decision-making issues within the committee by deciding upon listing decisions in a cumulative decision package following the mode of power-based decision-making. The chapter concludes that regulating the committee decision-making process does not work when at least one committee member rejects imposing sanctions on Sudan. Skeptical committee members have no incentives to violate their situation-specific interests because not rule-based governance, but blockade is in their long-term interest. On the macro level, this results in poor sanctions management, inadequate enforcement, and insufficient reaction to reported sanctions violations. Consequently, the sanctions regime unfolds little impact.

The Sudan sanctions regime allows for studying decision-making problems that arise in listing individuals and entities to the committee's sanctions list. Although there was demand for listing decisions and several decision proposals have been brought forward, the Sudan sanctions committee has not been able to adopt any listing decisions. The Sudan sanctions regime constitutes a case, in which the creation

of a sanctions committee and the transfer of decision-making competencies do not automatically lead to rule-based decision-making because every Council member can block decisions within committee confines. Principally, such a decision blockade could be bypassed through Council rule-making or a Council package decision. Certainly, rule-making is not very promising if one or more of the Council's permanent members disapprove of imposing sanctions on Sudan. The causal mechanism can only work if actors are in a coordination situation where focal points provide suitable coordination mechanisms. As a result, not the question, why the regime is blocked, is in need of explanation, but rather the question, why decision competencies are actually transferred if skeptics do not want to see sanctions imposed on Sudan.

The chapter proceeds as follows. In the following section, the interest distribution of powerful UNSC members on Sudan sanctions is evaluated and the question, if we would expect the causal mechanism to be present and working as postulated is assessed. In the second section, four case episodes are analyzed with a focus on how proactive actors deal with the absence of a common interest in the sanctions regime. In the first case episode, the process up until the imposition of sanctions is traced and the question, why reluctant powerful members actually agreed to establish a sanctions regime, although there were opposed to sanctions, is particularly looked into. In the second case episode, the effects of preference constellation within the sanctions committee led to stalemate because two permanent members block listing decisions. In the third case episode, proactive members sought to overcome the blockade and since rulemaking failed, these members submitted a listing proposal to the Council. In the fourth case episode, although preferences remained essentially unchanged and proactive members sought to propose further listing decisions, they neither engaged in rulemaking nor did they submit formal requests because they no longer expected positive outcomes. The chapter is concluded with a short summary of major findings.

8.1 The origins of the Sudan sanctions regime

The Darfur conflict violently erupted in early 2003 when two loosely aligned rebel groups, the Justice and Equality Movement (JEM) and the Sudanese Liberation

Movement/Army (SLA) (on armed groups, Flint 2007), seeking to put an end to the political and economic marginalization of African tribes, attacked Sudanese Armed Forces (SAF) and government facilities in Western Sudan. In response, the government initiated a brutal counter-insurgency campaign that resulted in sustained hostilities causing large-scale humanitarian consequences as well as gross violations of international humanitarian law and human rights. The government's use of Janjaweed militias as proxy force was particularly associated with atrocities (Flint 2007: esp. 152-155; Haggar 2007: 128–130; International Crisis Group 2003; Flint/Waal 2009: 116–149). There are multiple underlying causes of the conflict including rebels versus government, government versus civilian population and power struggles between the various Darfurian communities and tribes. Initially, the Darfur conflict did not draw much attention. However, in late 2003, the Secretary-General and other UN officials started to make public references to Darfur. In early 2004, Western newspapers and civil society groups rallied for an international response to the humanitarian situation in Darfur (Murphy 2007; Hamilton 2011: 27–53). The conflict has the potential to destabilize governments beyond Darfur, in particular potentially disrupting the peace process between Sudan and South Sudan (International Crisis Group 2004: i; Williams/Bellamy 2005: 30–31; MacKinnon 2010: 72–73; on roots of the conflict, Cockett 2010: 170–184; Daly 2007; Cassese et al. 2005: paras 61-72).

After reports on the grave humanitarian situation mounted in early 2004, Western powers and their allies demanded increasing Council intervention and pushed for sanctions. Generally, the P3 were the driving force on Darfur, but to varying degrees on the three intertwined UNSC agendas: peacekeeping, sanctions and accountability. Whereas the P3 collectively pushed for sanctions and supported peacekeeping (Bosco 2009: 246), on the accountability track, the US opposed the ICC referral and favored a special hybrid-tribunal, while France and the UK strongly supported an ICC referral (Bolton 2007: 349; Schabas 2010: 138–141; Bosco 2014b: 108–115). Early sanctions resolutions were mostly entirely sponsored by the UK and the US, accompanied by France (resolutions 1556 (2004), 1672 (2006)), other Western states such as Denmark, Germany, Romania, Slovakia, Spain and associated states Argentina, Chile,

Japan and Peru.[20] The UK has been the penholder on Darfur (Security Council Report 2015).

Within the Sudan sanctions regime, the preferences of UNSC permanent members regarding the imposition of sanctions were diametrically opposed. Whereas the P3 strongly supported sanctions, China fiercely opposed sanctions and to a lesser degree Russia was skeptical towards sanctions. When fighting erupted in 2003, among the P3, none of the permanent members had an interest in bringing Darfur on the UNSC agenda, because they feared that pressure on Khartoum might jeopardize their efforts to achieve a peace deal between Sudan and South Sudan, the Comprehensive Peace Agreement (CPA), where the US and the UK were deeply involved (Cockett 2010: 175–180), or might jeopardize the counter-terrorism cooperation with the Sudanese government (Prendergast 2007: 2–4; Huliaras 2006: 718–719; Xu 2004; on a different view Stedjan/Thomas-Jensen 2010: 164–165). Furthermore, the US and the UK were seeking a diplomatic success after the invasion of Iraq and wanted to avoid further military engagements beyond Afghanistan and Iraq (Cockett 2010: 176–178; Stedjan/Thomas-Jensen 2010: 157–169; Williams 2010; Williams/Bellamy 2005: 34–35).

However, after the signing of the CPA in January 2005, the P3 strongly favored imposing sanctions on Sudan. In general, Western governments were relieved of accommodating the Sudanese government since a North-South peace deal was now in place (Cockett 2010: 223–224). Indeed, the aggravating humanitarian situation in Darfur and reports about large-scale violations of international humanitarian law mounting, a large civil society campaign strongly pressured Western governments and legislators, particularly in the US and the UK, to do something about Darfur (Happaerts 2009: 108; Grzyb 2010: 77–86; Stedjan/Thomas-Jensen 2010: 158–160; Flint/Waal 2009: 183–187; Hamilton/Hazlett 2007; Hamilton 2011). Simultaneously, neither the US, nor the UK nor France had any significant economic interests in

[20] Resolution 1556 (2004): Chile, France, Germany, Romania, Spain, UK and the US (S/2004/611); resolution 1564 (2004): Germany, Romania, Spain, the UK and the US (S/2004/74), resolution 1574 (2004) during consultations (S/2004/903); resolution 1591 (2005) US (S/2005/206); resolution 1672 (2006): Argentina, Denmark, France, Japan, Peru, Slovakia, UK and the US (S/2006/255).

Sudan that would provide disincentives for sanctions (see Table 11, Williams 2010: 202–203). On the issue of counter-terrorism cooperation, although the US administration had offered to remove Sudan from its list of state-sponsors of terrorism, it had lost its political maneuverability due to the immense domestic pressure (Cockett 2010: 180; Stedjan/Thomas-Jensen 2010: 157–169). The UK government had developed a distinct interest in pushing the concept of responsibility to protect and was under immense domestic pressure (Williams 2010: 201–203). France, as a former colonial power of neighboring Chad and CAR and having strong military interests in francophone Africa, also became a strongly interested in maintaining regional and Chadian stability as a result from the conflict's spill-over (Charbonneau 2010: 221–224; Happaerts 2009: 108). As a result, for the P3, sanctions provided a reasonable option to create visible action responding to domestic pressures, without straining too many resources in the wake of Iraq, which removed credible outside options such as an intervention or no-fly zone from the policy menu (Cockett 2010: 223-225, 272-284; Bolton 2007: 348–361; Daly 2007: 294–295, 297-298).

Table 11: P5 and EU Trade Volume with Sudan in Billion USD, 2002-2012

Year	2000	2002	2004	2006	2008	2010	06-10 % change
China	0.89	1.55	2.52	3.35	8.20	8.62	157
France	0.10	0.08	0.12	0.34	0.23	0.18	-47
Russian Federation	0.01	0.02	0.15	0.11	0.12	0.18	65
United Kingdom	0.15	0.17	0.24	0.30	0.27	0.23	-23
USA	0.02	0.01	0.07	0.08	0.15	0.13	175
EU-28	0.67	0.80	1.39	2.11	2.05	1.54	-27
Total	**1.83**	**2.64**	**4.49**	**6.30**	**11.02**	**10.88**	**73**

Note: Total Trade Volume combines Import and Export. Data as reported by respective state (Reporter) to Sudan (Partner). Source: UN Comtrade Database, available at: http://comtrade.un.org/data/ [31 July 2015].

China and Russia strongly supported the Sudanese government and were highly reluctant to impose sanctions. China, although showing an increasingly proactive role in convincing the Sudanese government to give its consent to the UN/AU peacekeeping mission (Holslag 2008: 74–81), maintained an "anti-sanctions line"

throughout the conflict (Taylor 2010: 184; Holslag 2008: 79, 81-82; Lee et al. 2012). First, China had increasing economic interests in Sudan and was the only significant trade partner among the P5 (see Table 11, Holslag 2008: 71–74; Wuthnow 2013: 95–96; Traub 2010: 11; Oertel 2014; Happaerts 2009: 108), not least interested in Sudanese oil with Sudan being the fifth largest Chinese supplier (Wuthnow 2013: 95). Even shortly after imposing sanctions, China increased its trade volume more than 150 percent compared to pre-sanctions times. Second, China was a large supplier of conventional arms to Sudan amounting to seven percent of Chinese exports. Moreover, China provided 90 percent of small arms sales to Sudan (Wuthnow 2013: 95–96; Department of Defense 2009: 58; Wezeman 2007: 3). China had supplied heavy conventional weapons including fighter jets, helicopters, tanks and armored vehicles (Human Rights First 2008: 11–16). Third, China principally rejected the notion of sanctions as a relevant policy tool to address the Darfur conflict (Traub 2010: 11; Taylor 2010; Daly 2007: 297–298; Happaerts 2009: 108). Russia mainly followed the Chinese lead and was reluctant towards imposing sanctions for various reasons, including the sale of military equipment (Wezeman 2007: 3), an oil deal with Sudan, and sanctions being a threat to Russian interest in receiving payments in connection with these contracts. Most importantly, Russia principally rejected any form of outside intervention in Sudan including sanctions (Williams/Bellamy 2005: 32–33; Cockett 2010: 199, 224; Wuthnow 2013: 104–105; Happaerts 2009: 108; Oertel 2014).[21]

As a result from the distribution of interests, where on the one hand, the P3 want to see sanctions imposed, whereas on the other hand, China and Russia seek to prevent the imposition of (meaningful) sanctions, the postulated causal mechanism is not expected to be present because the basic condition for its presence is not met. In fact, several UNSC members have abstained on resolutions threatening, imposing or strengthening sanctions, including five abstentions by China and three abstentions by Russia (see Table 12). Several statements of China and Russia made clear that they

[21] According to SIPRI Arms Transfers Database, both China and Russia have continuously provided arms to the regime in Khartoum from 2000 to 2010. Data available at: http://armstrade.sipri.org/armstrade [last visit: 08 September 2015].

strongly opposed the idea of imposing sanctions on Sudan (China, Russia, S/PV.5015, S/PV.5040). For instance, China raised "serious reservations" against proposed sanctions resolutions and reinforced that "China's position against sanctions remains unchanged" (China, S/PV.5040). Because two permanent members generally object to imposing sanctions on Sudan, it is reasonable to expect that they have no interest in rule-based governance. In this case, one would also expect that rules and precedents as focal points could not provide suitable reference points for coordinating behavior, but instead that powerful members would seek to compensate individual preferences through Council package deals as alternative.

Table 12: Selected Resolutions Sudan Sanctions Regime 2004-2006

Date	Resolution	Countries Abstaining	Verbatim Record
30 July 2004	1556 (2004)	**China**, Pakistan	S/PV.5015
18 September 2004	1564 (2004)	Algeria, **China**, Pakistan, **Russia**	S/PV.5040
19 November 2004	1574 (2004)	none	S/PV.5082
29 March 2005	1591 (2005)	Algeria, **China**, **Russia**	S/PV.5153
31 March 2005	1593 (2005)	Algeria, Brazil, **China**, **USA**	S/PV.5158
25 April 2006	1672 (2006)	**China**, Qatar, **Russia**	S/PV.5423

Note: Author's illustration. Source: http://www.un.org/en/sc/meetings [08 September 2015].

Nevertheless, when the UNSC imposed sanctions on Sudan, it provided the sanctions committee with substantive and procedural rules. Resolution 1591 (2005) introduced listing criteria but no concrete procedure on listings. The delisting procedure has been created as a purely intergovernmental procedure, but as a result of lacking listings has not been used so far. The Council introduced the possibility to grant humanitarian exemptions from the travel ban and the assets freeze, but no requests for exemptions have been made so far. However, both delisting and exemption procedures were not resulting from internal decision problems but rather constituted spill-overs from other sanctions regimes, in particular the Al-Qaida/Taliban sanctions regime. The Panel of Experts and its mandate received little refinement through Council resolutions or committee guidelines.

8.2 Theoretically-relevant case episodes of decision-making

The Sudan (Darfur) sanctions regime's fundamental interest divergence on the question, if sanctions should be imposed at all, created a situation in which a committee blockade cannot be resolved through Council or committee regulation. Instead, only the UNSC decision-making path allowed for fulfilling the proactive members demand for decisions by means of Council bargaining. The following sections first study the particular UNSC decision-making process leading up to the creation of a sanctions committee, with a particular view on the puzzling observation that sanctions are imposed although powerful members rejected the creation of a sanctions regime. The second episode sheds light on decision-making issues within the sanctions committee emanating from two permanent members' interest in obstructing the committee decision process. The third episode takes the second possible decision path resolving deadlock, a Council resolution, into perspective. The fourth episode evaluates the consequences for committee decision-making in the wake of UNSC decision-making.

8.2.1 The creation of the Sudan sanctions regime

The early phase from conflict onset to the creation of the sanctions committee shows that the Security Council members did not share a common goal of cooperation. The group of sanctions supporters pushed for a credible sanctions threat and for the creation of a sanctions regime to administer targeted sanctions against conflict parties. The group critical of imposing sanctions systematically undermined these efforts by watering down resolution language through veto threat. While the proactive states finally achieved to create a sanctions regime, after four rounds of negotiations over a sanctions resolution, skeptical members achieved their objective of avoiding measures most central to their interests or keeping in control of future decisions, while minimizing reputational costs.

The phase of negotiations leading to resolution 1556 (2004) shows how divided the Council was on Sudan sanctions. After the UNSC had a first closed meeting on Darfur (Cockett 2010: 206–207; SC/8050) in April and issued a presidential statement demanding to uphold the ceasefire agreement and to disarm Janjaweed militias in

May (S/PRST/2004/18) as well as a resolution (1547 (2004)) repeating its request, on 30 June 2004, the US circulated a first draft sanctions resolution. The draft suggested targeted sanctions including a travel ban coupled with an arms embargo solely on Janjaweed militia members. In addition, the draft included the threat to impose sanctions on those responsible for atrocities in Darfur, which included the Sudanese government (Marquis/Lacey 2004). A newly established sanctions committee should determine the specific targets (Lederer 2004a; Agence France Presse 2004). Meanwhile, on 3 July, following Kofi Annan's diplomatic initiative, Sudan had agreed to a number of commitments including to disarm the Janjaweed in a UN-Sudan joint communique (MacKinnon 2010: 74; Annan 2012: 128–129).

The adoption of the joint communique further strengthened the opposition from China, Russia and Pakistan, so that the US revised its draft, dropped the targeted sanctions and reframed the arms embargo as applying to all armed groups, including Janjaweed and anti-government opposition groups. The US draft also dropped the sanctions committee alongside the targeted sanctions. Lastly, the revised draft included the Council's intention to consider sanctions on the government in case of non-compliance within 30 days (Hoge 2004a; Lynch 2004a). Still, the US were running into stiff resistance of seven out of 15 Council members, including China and Russia, which even objected to explicitly using the term 'sanctions' and were pressing for allowing Sudan more time to comply with the UN-Sudan joint communique (Lederer 2004b; Hoge 2004a). After intense negotiations, the US decided to further revise the draft and substituted the threat of sanctions with the broader notion of "to consider further actions, including measures as provided for in Article 41 (…) on the Government of Sudan" in case of Sudanese non-compliance, so that another resolution would be necessary to impose targeted sanctions (see resolution 1556 (2004), para. 6; Hoge 2004b; MacAskill 2004; Williams/Bellamy 2005: 32; Lynch/Lee 2004). Finally, on 30 July 2004, the Council imposed an arms embargo on "non-governmental entities and individuals, including the Janjaweed" operating in Darfur (resolution 1556 (2004), paras 6-9), with China and Pakistan abstaining.

The UNSC member's statements after the adoption reflected the preference constellation, where at least two permanent members rejected the notion of sanctions on Sudan. The sponsors (Chile, France, Germany, Romania, Spain, UK, and US,

S/2004/611) favored a clear sanctions threat and saw the main responsibility with the Sudanese government. Western governments perceived the Council resolution as providing Sudan with a final opportunity to avoid sanctions (France, Germany, UK, S/PV.5015, pp.5,7,9). The US also mentioned its initially hesitant position to not threaten the peace process: "For years, a number of nations (…) have worked hard to encourage a peace process in Sudan. (…) The last thing we wanted to do was lay the groundwork for sanctions. But the Government of Sudan has left us no choice. (…) Sudan must know that serious measures — international sanctions — are looming" (S/PV.5015, pp.3-4). The skeptical members mainly emphasized that there is no automaticity towards sanctions (Algeria, Brazil, China, Pakistan, and Russia, S/PV.5015). Brazil and Pakistan even mentioned that the resolution should not have been adopted under Chapter VII. China deplored that the "draft resolution (…) still includes mandatory measures against the Sudanese Government (…)[which] cannot be helpful in resolving the situation in Darfur and may even further complicate it (…). We can therefore only abstain in the voting" (S/PV.5015, pp.2-3). Finally, Russia lauded that "the resolution does not foresee possible further Security Council action with regard to Darfur" (S/PV.5015, p.7).

In the face of Sudanese non-compliance, the Chinese delegation gave its acquiescence to the resolution (Ahmed 2010: 7), because the elements of critical Chinese concern were significantly watered down in a bargaining process. First, the arms embargo solely on non-governmental militias and applicable only in the Darfur region does not pose a threat to Chinas economic interests in arms exports to the Sudanese government (Holslag 2008: 82; Wezeman 2007: 5). Simultaneously, China avoided the establishment of a sanctions committee to monitor the arms embargo, without which even sanctions proponents doubted the arms embargoes effectiveness (Lynch 2004a; Lynch/Lee 2004; Ereli 2004). Other direct targeted sanctions on pro-government Janjaweed were prevented. China also achieved to drop the direct 'sanctions' threat from the draft and for the meantime precluded other more forceful measures (MacAskill 2004; Hoge 2004b; Totten 2010: 189).

In late August 2004, when Special Representative of the Secretary-General Jan Pronk reported on Sudanese non-compliance on key Council demands, among others disarming the Janjaweed (S/2004/703, S/PV.5027), the proactive states again pushed

for sanctions (MacKinnon 2010: 74–75). The US circulated a new draft resolution on 8 September 2004, which suggested creating an International Commission of Inquiry to investigate human rights violations in Darfur and if genocide had occurred and contained a threat of economic sanctions on Sudanese oil if Sudan would not comply with UNSC resolutions. Since the sanctions proponents had little confidence in getting a tougher resolution adopted, the draft did not incorporate targeted sanctions or the creation of a sanctions committee (Hoge 2004c; Federal News Service 2004: 15, 28). Although the draft only included a sanctions threat, China, Russia, Algeria and Pakistan strongly opposed. China publicly announced to use its veto unless the language would be altered (Hoge 2004d). Finally, the US over the course of negotiations made four revisions. Most importantly, first, the sanctions threat was softened from "shall take" to "shall consider" (Hoge 2004d; Holslag 2008: 82) making the sanctions threat "more conditional and less automatic" (Hoge 2004e; MacKinnon 2010: 74, 95). Second, the drafters included language that the UNSC "welcomes" steps by the Sudanese government to refrain from obstructing humanitarian aid (Hoge 2004e). Finally, resolution 1564 (2004), co-sponsored by Romania, Spain, UK and US, established the International Commission of Inquiry (para. 12). Regarding sanctions, the Council mostly repeated previous language so that in case of non-compliance, the Council "shall consider taking additional measures as contemplated in Article 41 of the Charter of the United Nations, such as actions to affect Sudan's petroleum sector and the Government of Sudan or individual members of the Government of Sudan (…)" (resolution 1564 (2004), para. 14). Algeria, China, Pakistan, and Russia abstained.

Again, statements made after the adoption exemplify the interest constellation. The sanctions supporters, including the US, UK, France and Germany, outlined that although they had to compromise, they insisted on the usefulness of sanctions to enforce lacking Sudanese compliance. As the US delegate stated, "if the Government of the Sudan continues to persecute its people and does not cooperate fully (…), the Council will, indeed, have to consider sanctions (…). The resolution is the product of a negotiating process. It reflects the wishes of some delegations to recognize that the Government of the Sudan has met some of its commitments (…)" (S/PV.5040, p.5; UK, p.9). On the contrary, the skeptical members stated that they are "convinced that threatening sanctions is far from the best method of inducing Khartoum to fully

implement its obligations to the United Nations" (Russia, S/PV.5040, p.4). China noted that

> "[t]he Sudanese Government has shown its sincerity in trying to resolve the problem (…). For those reasons, the Chinese delegation has serious reservations about the resolution just adopted. (…) I wish to reiterate the fact that China's position against sanctions remains unchanged. It has been our consistent view that, instead of helping to solve complicated problems, sanctions may make them even more complicated" (S/PV.5040, pp.4-5).

Benin explicitly mentioned that the "controversial interpretations" about oil sanctions had threatened the adoption (S/PV.5040, p.9). Pakistan and Algeria, also welcomed the drafter's "flexibility" in weakening the notion of sanctions (S/PV.5040, p.2,7).

The veto-yielding China decided to abstain, since its major preferences had been respected. The resolution did not alter the previous arms embargo. Moreover, while positive language on Sudan's behavior was included, threats to additional sanctions were significantly watered-down, so that another sanctions resolution would be needed, which China could veto (MacKinnon 2010: 75; Holslag 2008: 82; Totten 2010: 190–191). As a result, "since a key element of the Council's work at present is support for the African Union in extending its deployment in Darfur — reflecting the wishes of the African Union and of the Secretary-General, as well as the broad consensus view — the Chinese delegation refrained from blocking the adoption of the draft resolution (…)" (China, S/PV.5040, p.5; Ahmed 2010).

In November 2004, when the UNSC held a meeting in Nairobi upon US initiative to support the North-South negotiations, the sanctions supporters desired to adopt a consensus resolution, in the bargaining over which the Darfur conflict was again highly contentious (MacKinnon 2010: 76; Lederer 2004c; Lacey 2004). Accordingly, besides focusing on the CPA process, the initial UK draft also called for "further urgent action" in case of Sudanese non-compliance. The draft did not foresee any tightened sanctions or a sanctions committee (Lederer 2004c). Immediately, sanctions skeptics including China, Russia, Algeria and Pakistan bargained to completely drop all references to Darfur arguing that such language could compromise negotiations (Farley 2004; Lacey 2004). Because the sanctions proponents did not want to risk a

split vote, recognizing that "[i]t would clearly be extremely difficult to get a resolution that actually imposes sanctions (…) adopted" (US, Lynch 2004b), the draft was amended and merely stated that the UNSC was "deeply concerned by the situation in Sudan" (Lederer 2004c). Consequently, resolution 1574 (2004) adopted contains calls for ceasing violence and compliance to international humanitarian law, but only suggests to take "appropriate action" in a future resolution (paras 11,12).

To achieve consensus on resolution 1574 (2004), sanctions opponent's concerns about sanctions threats were largely acceded to, so that their interests were entirely reflected. First, there were no new sanctions measures. Second, the sanctions threat was significantly watered-down. Third, any other demands on Sudan do not exceed what had been acceptable before. Strikingly, skeptical states did not even mention Darfur in their statements, while sanctions proponents cautiously reiterated that sanctions are still a viable option (China, Russia, UK, France, US, S/PV.5082).

In January 2005, the conclusion of the CPA, coinciding with the International Commission of Inquiry submitting its final report, which found that all conflict parties had committed serious war crimes and crimes against humanity, but stopped short of finding that this amounted to genocide (Cassese et al. 2005: paras 630-642), and continued reporting of non-compliance by all conflict parties (e.g. S/2005/68), created a new situation and the urgent need to deal with three interrelated issues: the authorization of a *peacekeeping* operation required for successful CPA implementation, *sanctions* as well as *holding perpetrators accountable* (MacKinnon 2010: 77). In addition, the little oversight over the arms embargo resulting from the absence of a sanctions committee, which left the compliance reporting merely to the Secretary-General, posed a serious impediment to effectively implement the arms embargo (Wezeman 2007: 5; S/2005/56 of 28 January 2005).

On 14 February 2005, the US circulated a package draft resolution suggesting to create a peacekeeping operation and to strengthen sanctions, while perpetrators should be vaguely tried through "internationally accepted means". To secure adoption of parts that had already been acceptable, the US later circulated three separate draft resolutions (Lederer 2005c; Wadhams 2005b). On the least-controversial peacekeeping track, resolution 1590 (2005) unanimously adopted on 24 March authorized a peace support operation transforming the UNAMIS into the UNMIS

mission with over 10.000 peacekeepers (MacKinnon 2010: 77). On accountability, upon an insistent French initiative departing from the strong US preference for a hybrid court (Hoge 2005a; US Embassy Paris 2005a), which had received little support (Lederer 2005a), the UNSC referred Darfur to the ICC because the US, after introducing provisions on financing, recognition of bilateral immunity agreements and limiting ICC jurisdiction on foreign personnel, as well as Algeria, Brazil and China abstained (resolution 1593 (2005), Cryer 2006: 203–205; Bosco 2014b: 108–115).

Regarding the sanctions track, the US draft resolution imposed targeted sanctions including an assets freeze and a travel ban on those impeding the peace process, threaten the stability of Darfur or violate human rights. The task to determine appropriate targets would be transferred to a newly created sanctions committee. The draft also extended the arms embargo to the Sudanese government so that the transfer of military equipment into Darfur would be subject to sanctions committee approval. The US draft provided for restricting military flights in Darfur and included the threat of further sanctions in case of non-compliance including "actions relating to Sudan's petroleum sector" (Linton 2005; Carnegie 2005; Reuters 2005; States News Service 2005a). Finally, the draft included establishing a panel of experts to identify potential individuals for sanctions (CNN 2005). Extending the sanctions ran into stiff opposition from China, Russia and Algeria (Wadhams 2005a; Lederer 2005b; Agence France Presse 2005a). China in particular stated that they "(…) have difficulties with the whole concept of sanctions" (Lederer 2005a, 2005b) and were willing to use their veto if their interests were at stake (Holslag et al. 2007: 50).

Accordingly, permanent members bargained over the scope of targeted sanctions, the arms embargo, the role of the sanctions committee and the consequences of non-compliance. Skeptical states demanded that if targeted sanctions are imposed, the specific targets would be determined by a new sanctions committee, which would give them full control over the implementation of measures (Holslag et al. 2007: 50), in return the assets freeze would be dropped, which proactive states also had considered as a potential means to win Chinese and Russian acquiescence. However, since proactive states would not want to make more concessions on what they regarded as an already weak draft or accept anything below targeted sanctions and a

broadened arms embargo on the Sudanese government in Darfur, resolution drafters only watered-down the consequences of non-compliance and deleted the threat of a future oil embargo (Leopold 2005a; MacAskill 2005; Traub 2010: 15). However, until the resolution was voted on in late March, proactive members still were uncertain if China and Russia would make use of their veto (Lederer 2005b, 2005c).

Finally, on 29 March, after China, Russia and Algeria had decided to abstain, the Security Council decided to impose targeted sanctions including a travel ban and an assets freeze on individuals, which a newly created sanctions committee should determine. In addition, the UNSC extended the arms embargo to all belligerents in Darfur and arms transfers of the Sudanese government to Darfur were subjected to prior sanctions committee approval. Likewise, the Council created a four member Panel of Experts for a six months period (resolution 1591 (2005), paras 3,7, States News Service 2005b).

After the vote, Russia and China made clear that they would stand ready to undermine implementing sanctions effectively. China noted that it had "serious reservations about the resolution" and reminded that "China has always taken a cautious approach to the issue of sanctions and we abstained on both resolutions 1556 (2004) and 1564 (2004). (…) China has repeatedly stressed that the Security Council should exercise the greatest caution with respect to "measures" that could make negotiations more difficult" (S/PV.5153, pp.4-5). Russia in turn was "convinced that the potential of political and diplomatic measures to defuse the conflict in Darfur has by no means been exhausted" and that the UNSC needed "to draw up an effective mechanism to assist the parties to quickly resume the negotiating process [which] (…) [s]anctions against the Sudanese Government are hardly likely to promote". In fact, the sanctions should be reviewed "as quickly as possible" (S/PV.5153, p.4). As such, opposing countries felt that sanctions on Sudan would be counterproductive, complicating the situation and would impede efforts for a political solution (Leopold 2005b; Hoge 2005b; Agence France Presse 2005b). Two days later, China's foreign ministry publicly claimed that China "opposes U.N. sanctions on Sudan" or any other form of "constant pressure" on Khartoum, which could affect a political solution of the Darfur crisis (Associated Press International 2005).

While Chinese and Russian acquiescence with resolution 1591 (2005) seems puzzling, it can be explained mainly by two factors. First, the abstention is fully in line with the ultimate policy goal of blockade and the draft resolution did not affect their primary interest in Sudan. In fact, the skeptical members managed to rule out the threat of an oil embargo or other economic sanctions that would have threatened their economic interests in Sudan (Human Rights First 2008: 18). In addition, they managed to contain the arms embargo on Darfur, which allowed them to continue arms exports to the Sudanese government without violating the arms embargo because sanctioned arms transfers to Darfur would be the sole responsibility of Sudan (Wezeman 2007: 6, both Russia and China have since made use of this loophole, see Lewis 2009). Concerning targeted sanctions, the skeptical member's insistence on creating a sanctions committee responsible for listing of sanctioned individuals allowed them to stay in control over sanctions and to block any implementation decisions including the formulation of rules. Without such implementation decisions there would be no targeted sanctions as the resolution itself did not determine any targets (Holslag et al. 2007: 46; Holslag 2008: 81; Løj 2007: 46; Prendergast/Sullivan 2008).

Second, abstaining provided a superior cost-benefit payoff since an abstention would best serve their interest in not further antagonizing the West through obvious obstructionism, while minimizing the impact on a strategic partnership with African nations as responsible power (Wuthnow 2010: 71; Taylor 2010: 187–188). Concerning the former, a public Council veto would have been increasingly difficult to sustain as sanctions would be the natural next step according to the logic of escalation in similar conflict settings. Even the Chinese did not challenge the magnitude of the crisis that all belligerents including Sudan were non-compliant (China, S/PV.5153, Oertel 2014: 154). At the same time, the transfer of political conflict into the sanctions committee provided a meaningful way to deflect international pressure from the Council. Concerning the latter, the Chinese had immediately assured the Sudanese government, that they did not intend to let the sanctions proponents follow through on implementation (Holslag et al. 2007: 50; Holslag 2008: 81). Nevertheless, a sanctions regime also entailed the danger of unfolding its own (unintended) dynamic, for instance that the Panel of Experts might scrutinize Chinese behavior on arms exports.

As resolution 1591 (2005) is not substantially different from other sanctions resolutions in terms of rulemaking at that time, and it does indeed provide decision criteria, there is no evidence that skeptical members systematically scaled down those initial rules. Resolution 1591 (2005) included a first set of listing criteria that the committee should observe while considering possible designations, including those individuals "(…) who impede the peace process, constitute a threat to stability in Darfur and the region, commit violations of international humanitarian or human rights law or other atrocities, violate the (…)[arms embargo], or are responsible for offensive military overflights (…)" (para. 3c). The UNSC requested the committee "to designate those individuals subject to the measures", omitting a concrete listing procedure, and simply directing the committee to establish guidelines as may be necessary for implementing sanctions. The UNSC also mandated the committee to monitor targeted sanctions and arms embargo implementation, to decide about exemption requests, to regularly report to the Council, and to assess Panel of Experts' and member states' reports on sanctions implementation (para. 3a).

The early phase shows that although Russia and China finally acceded into establishing a Sudan sanctions regime, they have been reluctant to see sanctions imposed on Sudan. While minimizing the diplomatic fallout, skeptical members repeatedly expressed that they had no interest in effective sanctions implementation on Sudan. In fact, these members got the available option to block to the future committee decision process. Consequently, the political conflict inherent to imposing sanctions on Sudan was transferred from the Council to the Sudan sanctions committee. This marked the beginning of an intense phase of committee negotiations on how to proceed on Darfur ultimately resulting in a Council resolution listing individuals.

8.2.2 Opposition of two permanent members on Sudan sanctions prompted decision blockade in the sanctions committee

This case episode shows that decision-making blockade within a sanctions committee is indeed a viable outcome of collective decision-making, although the Council transferred decision competencies to the same group of actors. In the Sudan sanctions regime, committee governance was not at work because the basic condition, namely,

that all actors shared a more or less homogenous interest in maintaining a sanctions regime, was not met. Even though the sanctions regime was not merely an instance of symbolic politics, since other powerful actors actively and repeatedly pursued listing requests and invested considerable resources into the sanctions regime, at least one permanent member pursued blockade as a dominant strategy. Consequently, efforts to solve deadlock with rulemaking failed to substantially increase formal and informal regulatory density because actors skeptical of sanctions could systematically undermine additional rulemaking. As a result, in this episode, the committee was largely blocked and thus, functional differentiation was severely undermined.

The delegation of listing decisions to the committee in spite of three committee members' opposition to the implementation of sanctions rendered any kind of committee implementation decisions, i.e. listing, where not only the permanent members, but also the non-permanent members can block decisions, subject to potential blockade. Almost immediately after the imposition of sanctions, China and Russia began to undermine the committee's work (Traub 2010: 16–17; Prendergast/Sullivan 2008), for instance on the Panel of Experts' appointment by declining to accept several candidates based on arguments of lacking experience or being too critical of the Sudanese government (Leopold 2005d; Totten 2010: 193; Human Rights First 2008: 18). Thus, the Secretary-General appointed four individuals to the first Panel of Experts only after three months (Committee Annual Report, S/2006/543, para. 6).

Up until the end of 2005, none of the committee members pursued listing requests (Couturier 2005) because even sanctions proponents hoped that the Abuja peace process involving the conflict parties in Darfur would progress and the UNSC had endorsed the 31 December 2005 as deadline for its conclusion. However, the progress of negotiations was slow and previous agreements such as the N'Djamena Ceasefire Agreement or the Declaration of Principles had been instantly, grossly and repeatedly violated (Nathan 2007: 248). At the same time, the conflict parties continued hostilities and large scale violations of international humanitarian law against the civilian population, a fact that even the divided UNSC accepted (S/PRST/2005/48, S/PRST/2005/67; Flint/Waal 2009: 150–166, see UNSG reports S/2005/378, S/2005/650, S/2005/719, S/2005/825). Thus, before the proactive states,

US, UK and France started to consider to designate individuals in late 2005 (US Embassy Paris 2005c), there had been little efforts to implement sanctions (SCR Forecast February 2006) with "[t]he sanctions committee (..)[being] still inoperative, with no agreement on guidelines and therefore no capacity to target sanctions against individuals" (SCR Forecast November 2005b). The Council merely extended the mandate of the expert body in December 2005 (resolution 1651 (2005)).

The ending of the first Panel of Experts' mandate cycle by 30 December 2005 provided a window of opportunity for sanctions supporters to consider pursuing sanctions. The Panel report contained 13 recommendations to improve the sanctions regime (S/2006/250). Most importantly, it contained a list of individuals attached in a confidential annex that, in the view of the panel, fulfilled the listing criteria outlined in resolution 1591 (2005). In concrete terms, the confidential annex, suggested 17 individuals for listing and "five others are cited as possible future targets for sanctions, including Sudan's President Omar al-Bashir and the President of Chad, Idriss Deby" (Goldberg 2006; Turner 2006; Lynch 2006a). The list contained government personnel such as the interior minister, the defense minister and the director of national security and intelligence services. Furthermore, the annex listed "several Sudanese military and police commanders, two Janjaweed militia leaders and five rebel commanders" (Human Rights Watch 2006; Turner 2006). Among the list of five additional names were "two top commanders of the rebel Sudan Liberation Army (SLA)" (Human Rights Watch 2006). Although the Panel of Experts was providing a set of individuals, member states had to make formal designations so that the committee did not automatically have to consider all names in the confidential annex.

In January 2006, the sanctions proponents including the Western Council members (Denmark, France, Greece, Japan, UK, US) took a more proactive stance on targeted sanctions and favored to initiate deliberations on listings despite resistance by China, Qatar and Russia (Lederer 2006b). The US started to gather and corroborate information provided by the Panel of Experts confidential list and requested their embassies to assemble and cross-check information to prepare listing requests (US Embassy Khartoum 2006a; US Embassy The Hague 2006).

Within the committee, sanctions skeptics undermined meaningful committee decisions by using procedural arguments (Prendergast/Sullivan 2008: 5–7). First, the Arab member Qatar and China had joined forces to seriously delay the transmission of the report, a matter which is usually of a routine nature, because they disagreed with the report's conclusions (Lederer 2006a). The committee chair asserted that the issuance of the report had been delayed because the committee "does not agree with the recommendations" (Lederer 2006b), so that the committee "did not even get to the point of discussing its list, and other lists, of people who might be subject to sanctions (…)" (Lederer 2006b). However, finally the report was submitted to the Council for official publication in late January 2006 (S/2006/543, para. 17), and had not been altered in substance before transmittal (SCR Update Report No.3 2006). Second, the sanctions sceptics delayed the adoption of committee guidelines so that the committee lacked a set of concrete procedural criteria. Resolution 1591 (2005) did not establish a specific procedure under which individuals are to be designated, how to take other decisions related to its mandate and with what timeframe decisions are to be made. In effect, the committee could not process Panel of Experts listing suggestions, an instance that the supporters of sanctions perceived as a delaying scheme by Qatar, China and Russia, which insisted that first "the sanctions committee establish[es] criteria to determine who should be subject to sanctions (…)" (Lederer 2006b). China and in particular Qatar have continuously put up procedural objections during committee meetings (Goldberg 2006). Throughout February, committee discussions concerning possible listings were ongoing, however, without an agreement on committee guidelines, the committee would not be able to adopt listing decisions (SCR Forecast March 2006).

While the committee finally agreed on a set of committee guidelines on 23 March 2006 "[f]ollowing extensive discussions on the subject" (S/2006/543, para. 20), the guidelines did not significantly increase regulatory density and mostly repeated standard committee practice. The adopted committee guidelines consist of 11 pages including 27 numbered provisions. Although this is not particularly less than in other sanctions regimes, the other sanctions regimes had a much more detailed informal practice of how to handle cases codified at a later stage. According to the guidelines, "[t]he Committee will decide on the designation of an individual (…) on the basis of the criteria contained in (…) [resolution 1591 (2005)]". As regards designation of

individuals "the Committee will consider information provided by Member States, the Secretary-General, the High Commissioner for Human Rights, the Panel of Experts (…) and other relevant sources" (committee guidelines, para. 7a). Similar to the listings in other sanctions regimes, a designation should "be accompanied by, to the greatest extent possible, a narrative description of the information that justifies how that individual fits within the criteria (…) of resolution 1591 (2005)" (para. 7b). In addition, the designation should include "relevant, specific and up-to-date" identifying information such as "name, date of birth, place of birth, nationality, aliases, residence, passport or travel document number, professional or functional title" (para. 7c). In line with standard sanctions committee practice, decisions will be taken by consensus (para. 25) in a written "no-objection procedure" with a timeframe of two working days (para. 26).

The P5 were still sharply divided over the issue of Sudan sanctions. On the one hand, the P3, in addition to other interested states (Greece, Denmark, Slovakia, Argentina, Peru, Japan, Ghana) now actively pushed for additional sanctions to uphold Council credibility and to provide incentives for the belligerents to achieve a negotiated settlement (US Permanent Mission to the UN 2006b; Lynch 2006b). On the other hand, China and Russia strongly opposed increasing pressure on Sudan through sanctions arguing that this would undermine the cooperation of Sudan vis-à-vis the UN (Lynch 2006a, 2006b; Hoge 2006a; Løj 2007: 46). In private P5 consultations, China made clear that it opposed any further pressure on Sudan in the form of sanctions designations or the possible extension of the arms embargo to the entire territory of Sudan (US Embassy Moscow 2006a).

Because the preference constellation would not allow for a separate processing of listing requests in an arguing process, the sanctions proponents pursued active bargaining to get listings adopted. More than a year after the Council imposed targeted sanctions, on 1 March 2006, the UK proposed a considerably shorter list comprising of eight individuals for the addition to the consolidated list. The UK deliberately "had taken pains to draw up a 'balanced' list of up to eight leaders from both sides", including a number of senior government officials (Penketh 2006; Lynch 2006b; MacAskill 2006). The provision of a listing proposal containing a set of individuals enabled the committee members to engage in bargaining over the

proposal's content. However, several committee members including China, Russia and Qatar, as well as the United States raised objections to the UK proposal partly on grounds of "insufficient evidence to implicate some senior Sudanese officials" (Lynch 2006b). Even the Special Representative Jan Pronk, realizing that bargaining was a potential solution, suggested to "designate individuals from the middle of the list of names, rather than those at either extreme, in order to demonstrate greater flexibility and realism" (US Permanent Mission to the UN 2006b).

To placate opposition from China, Russia and Qatar within the committee, the UK and the US further trimmed down the list to four individuals and garnered support from other committee members. On 13 April 2006, the Chairman upon a joint designation by United States, Britain, France, Denmark, Argentina, Slovakia, Peru and Japan circulated the decision proposal of a shorter list of four individuals as a "balanced package" (Lederer 2006d) under the no-objection procedure. The proposal now deliberately included "individuals from all sides, but refrains from naming high officials" (Agence France Presse 2006a; SCR Forecast April 2006b). The US unwillingly accepted that the proposal merely resembled a "down payment on what we expect will be additional sanctions" (Lederer 2006c). Within the timeframe of two working days, China and Russia broke silence and placed a hold on the listing request (Hoge 2006c; Lynch 2006b; Aita 2006; US Embassy Paris 2006a). According to the Chinese ambassador, "[i]n the sanctions committee meeting, he had joined others in requesting clarifications on the inclusion of individuals on the sanctions list" (Security Council Press Release 2006). While China and Russia did not principally rule out that sanctions could be applied on the individuals, they criticized the timing of sanctions, stated that sanctions would undermine cooperation of conflict parties and requested additional discussions about the listing (Lederer 2006e, 2006f; Agence France Presse 2006b). Again, the proposed designation was discussed at informal committee consultations on 19 April 2006 (S/2006/1045, para. 14), with no change of positions.

The case episode of committee decision-making in 2005 and early 2006 illustrates that even though the Council has transferred such decision competencies to the identical group of actors, decision-making on small implementation decisions within sanctions committee, in this case listing of individuals and entities to the

sanctions list, indeed did fall victim to blockade. Still, whilst this left sanctions proponents with the option to submit decision packages, because skeptical members preferred blockade, they rejected the proposed listing decisions.

8.2.3 Resolution of decision blockade through power-based decision-making in the Security Council

In the third case episode, the blockade in the committee was resolved by referring the issue back to the Council. At this stage of the process, Council members principally had two options to alleviate the committee stalemate. First, Council members could negotiate about substantive and procedural decision criteria with the aim to provide focal points that indicate on which requests to compromise. However, since rulemaking efforts ran into resistance from skeptical permanent members, second, sanctions proponents rather sought to resolve the deadlock via adopting a Council package resolution.

Before referring a listing proposal to the Council, sanctions proponents attempted to overcome committee blockade through adopting decision criteria for the committee. With respect to procedural criteria, in anticipation of the committee blockade, France pushed for dropping the standard committee practice of consensus in favor of a majoritarian decision-making procedure without veto, as had been previously used in the United Nations Compensation Commission (on UNCC, see Di Frigressi Rattalma/Treves 1999: 3). Since the early 2000s, in connection with the sanctions reform process, the French had been advocating for abolishing the consensus requirement (Brzoska 2003: 523; Weschler 2009-2010: 42; Sievers/Daws 2014: 530). In bilateral US-French consultations on the Sudan committee blockade, the French diplomat "clarified, that designations are best taken by consensus at the committee level, however, 'as a matter of doctrine,' the principle of consensus should not become a straitjacket, and a sanctions committee should be allowed to overcome the obstacle of a hold, as in the Chinese/Russian hold over Sudanese names, through a simple procedural vote, without requiring recourse to Security Council deliberations" (US Embassy Paris 2006a). During the specific negotiations about committee guidelines, the sanctions skeptics objected to the French position. As a result, "France's reservations against the consensus rule" (SCR Forecast April 2006b) could

not be accommodated and the guidelines instead used the standard language that "if (…) consensus still cannot be reached, the matter may be submitted to the Security Council" (guidelines, para. 25(c)).

With respect to substantive criteria, "refusing to succumb to the stall tactics that have become standard operating procedures for the Chinese, Russian and Qatari delegations" (US Permanent Mission to the UN 2006e), after the singing of the Darfur Peace Agreement (DPA) on 5 May 2006, which the JEM and a SLA splinter group rejected (Traub 2010: 17; Prendergast/Sullivan 2008: 5), the sanctions proponents made an effort to change designation criteria. The US submitted a draft resolution endorsing the DPA and preparing the AU-UN peacekeeping transition (Wadhams 2006a). Most importantly, the draft resolution, which met stiff resistance from China and Russia, included new listing criteria and explicitly task the committee to sanction any individual or group that violates the DPA or blocks its implementation, including the Sudanese government and Janjaweed militias, (Holslag 2008: 81–82; Wadhams 2006b). In bilateral US-Chinese consultations, China "indicate[d] its strong preference for unanimity and provided a veritable roadmap of what it needed to secure this outcome: omission of a reference to UNSCR 1591 (2005) on Sudan sanctions on which China had abstained" (US Permanent Mission to the UN 2006e). Therefore, to secure the passage of the African Union Mission in Sudan (AMIS) transition resolution under Chinese veto threat "[a]fter three rounds of working-level negotiations and an eleventh-hour Ambassadorial exchange" (US Permanent Mission to the UN 2006e), instead of breaking the committee deadlock through Council rulemaking, Council members merely agreed to the soft formulation that the Council "expresses its intention to consider taking, (…) strong and effective measures, such as a travel ban and assets freeze, against any individual or group that violates or attempts to block the implementation" of the DPA (resolution 1679 (2006), para.1, emphasis removed) without requesting the committee to get active (Wadhams 2006c). Since any meaningful sanctions language directed towards the committee was deleted, the Chinese supported the draft resolution, which "(…) had a domino effect on the other dissenters, with Russia and Qatar ultimately voting in favor" (US Permanent Mission to the UN 2006e). Resolution 1706 (2006), simply reiterated this intention (para. 14).

After two unsuccessful attempts to change substantive and procedural criteria, the sanctions proponents realized that rulemaking will not be an effective strategy and that their committee listing proposals would ultimately fail. On the on hand, actors that preferred blockade on Sudan sanctions had a veto position when it came both to Council or committee rulemaking. At the same time, Chinese and Russian opposition to substantive and procedural criteria points to the fact that rules were indeed dangerous to their interests. On the other hand, while running into stiff resistance from other permanent members, which successfully watered down sanctions measures, the significant investments of proactive members into negotiating previous resolutions and committee rules created an expectation that the Council would not adopt an improved rule-set. As a result, Council members could no longer expect rulemaking to be a viable strategy to overcome committee blockade. At some point, it would be more costly to engage in further negotiations about rules than to bypass the committee via adopting a Council resolution.

Since rulemaking did not prove to be successful in adopting sanctions designations, the proactive states changed their strategy and pursued to designate individuals and groups by means of a power-based decision-making in the Council (Sievers/Daws 2014: 530), which "would have been unnecessary had the French position on procedures been accepted in the first place (…)" (US Embassy Paris 2006a). During committee deliberations, sanctions proponents "ran into enormous difficulties, especially from China" (Bolton 2007: 352) because objecting states China, Russia and Qatar maintained that they generally opposed sanctions on Sudan (Lederer 2006e). Hence, on 18 April 2006, in response to the objections raised within the committee, the US presented a draft resolution containing the very same four individuals for listing as a sanctions package to the Council (Aita 2006; Lynch 2006b). The US strategy to table the listing requests as draft resolution was intended "to circumvent the opposition from Russia and China with the hope that the two countries would not veto the text" (Aziakou 2006a; Agence France Presse 2006c). While the US requested other proactive countries to also support a sanctions resolution instead of further committee deliberations (US Embassy Paris 2006a; US Embassy Tokyo 2006), during Council consultations there was no apparent change of positions. Although the US was unsure if China and Russia would place a public

Council veto, they were "hopeful that it will pass" and noted that they "haven't heard the 'v' word" (US Permanent Mission to the UN 2006c; Aziakou 2006b).

To achieve a negotiated bargaining outcome within the Council, the decision had to be put into an even larger package solution. After a compromise to couple the resolution with a presidential statement supporting the Abuja peace process and calling on the belligerents to cease hostilities (S/PRST/2006/17) in particular upon request of African members and "thereby sending a signal that the sanctions were not aimed at pressuring the talks per se, but in response to the ongoing violations of human rights and of the ceasefire" (SCR Forecast May 2006b), the UNSC adopted the resolution co-sponsored by Argentina, Britain, Denmark, France, Japan, Peru and Slovakia on 25 April 2006 with China, Russia, and Qatar abstaining. Resolution 1672 (2006) implemented sanctions on four individuals, namely, Gaffar Elhassan (Western Military Region Commander, Sudanese Armed Forces), Sheikh Musa Hilal (Janjaweed), Adam Shant (SLA Commander), Gabril Badri (National Movement for Reform and Development Field Commander). The US hailed that "[u]ltimately, on April 25, we prevailed, but imposed sanctions on fewer individuals than we wanted" (Bolton 2007: 352). Conversely, the skeptical members China, Qatar and Russia criticized the resolution in their statements saying that "this resolution might have a negative impact on the prospects for concluding a peace agreement" (Russia, S/PV.5423, 2), demanding that proactive states should have rather provided "supplementary material" and that going to the Council "is at variance with the Council's practice of many years' standing" (China, S/PV.5423, p.3).

The puzzling Chinese acquiescence to sanctioning the four individuals can be explained by two main factors. First, the stakes of the sanctions designation had already been considerably lowered from the original confidential annex with 17 individuals to four mid-level individuals, two of which were Darfur rebels, while only two where affiliated with the Sudanese government. Accordingly, Chinese and Russian abstention "indicates that neither may be willing to veto as long as proposals do not target the highest-ranking Sudanese officials at this time" (US Permanent Mission to the UN 2006d). In addition, "[n]one of the four had significant assets in foreign banks or indulged in foreign travel, so the impact of these sanctions was more symbolic than real" (Prendergast/Sullivan 2008: 7). Second, China confirmed that

they wanted to avoid being isolated when Qatar and Russia had decided to abstain. In bilateral US-Chinese consultations after the adoption, a Chinese diplomat explained that "China decided to abstain (…), because going against a majority of the Council's members would have been 'unthinkable,' (…)". Further he

> "acknowledged that China had changed its tactics since April 17, when China, Russia, and Qatar blocked the [committee listing request](…), but reiterated that China's fundamental opposition to sanctions had not changed. 'Once Russia and Qatar decided to abstain, Ambassador Wang (Guangya) decided it was better to abstain than veto'" (US Embassy Khartoum 2006b).

Still, the adoption of sanctions targets via Council resolution created immediate implementation issues because in contrast to a committee listing, which would have required a minimum identifying information, there were no such requirements for the Council. Without a certain quality of identifiers, enforcing a travel ban and identifying individual's assets is difficult. As the committee Chair noted, the resolution "had not included sufficient identifying elements on the designated persons, despite the relevant provisions of the [committee] guidelines. There were fears that that might create problems for implementation of the targeted measures" (Press Release Briefing of 1591 Committee Chair; S/PV.5601). Indeed, even French officials mentioned "the inadequacy of identifiers in enforcing the travel ban and asset freeze" (S/2006/795, para. 119). Consequently, the Panel of Experts recommended increasing the amount of identifying information for effective implementation (S/2006/795, para. 120). As a response, the committee sent a note verbale to all member states requesting additional information, however, received not a single response (S/2006/1045, para. 19; S/2007/584, para. 154). Subsequently, when the Panel of Experts provided further identifying information (e.g. S/2006/795, paras 115-123, S/2007/584, paras 142-157), the committee added this information to its sanctions list (SC/9093, SC/10938, SC/11112; S/2007/779, para. 26).

In sum, the third case episode illustrates that Council members perceive rulemaking or Council package decisions as two possible options to overcome committee blockade on the Security Council level. However, as regards rulemaking, skeptical members objected to efforts of rulemaking, both on majority voting as well as on decision criteria. Although the Council was more active on Sudan since 2012,

the discussions still have not materialized into significant changes, and those adopted mostly remain at the level of declarations of intent.[22] For instance, the Council requested the committee "to respond effectively to any reports of non-compliance, (…) including by engaging with all relevant parties" (resolution 2035 (2012), para. 14) omitting the option of new listings. Instead, a Council package resolution under majority voting provided an alternative to rulemaking. This proved a successful strategy because sanctions opponents would have to publicly veto a resolution, the content of which was of marginal cost.

8.2.4 Resulting decision situation in the committee

The fourth case episode demonstrates that the continued opposition of two permanent members to sanctions on Sudan led to a sustained blockade of the committee decision process on listings and sanctions implementation. Since previous efforts to overcome blockade with rulemaking have been unsuccessful, proactive member states no longer considered rulemaking as a viable strategy. Hence, neither the Council, nor the committee took its regulating function seriously. Instead, proactive committee members sought to overcome blockade through pursuing package deals with the option of raising decision packages to the Security Council. Within the committee, the US, UK and France actively spearheaded listing requests in several instances, mostly with China, Russia and the Arab member opposing sanctions. Because sanctions proponents were no longer willing to risk failure of their proposals within the Council, as a consequence, the committee was largely blocked from making decisions. All further listing attempts have proven unsuccessful. In fact, the sanctions

[22] Resolutions 1713 (2006), 1841 (2008), 1891 (2009), 1982 (2011) were technical roll-over resolutions. Resolution 1779 (2007) included two Panel of Experts mandate changes, to coordinate activities with UNAMID and to assess arms embargo violations (para. 3). Resolution 1945 (2010) clarified that arms embargo exemptions are subject to committee approval and that exporting states should ensure end-user documentation (paras 9, 10). On listing criteria, sanctions would also apply to entities (resolution 2035 (2012), para. 3) and individuals and entities which "plan, sponsor or participate in attacks against UNAMID (…) may (…) meet the designation criteria" (resolution 2091 (2013), para. 8). Resolutions 2138 (2014), 2200 (2015) and 2265 (2016) issued further expressions of intent.

regime was entirely ineffective as there were only four sanctioned individuals and the sanctions measures remained unenforced.

Whilst again committee members have two options to overcome committee decision blockade, rulemaking or package deal, actors no longer believe that rulemaking is a viable option. There is no indication that overcoming committee blockade was the motivation behind any further changes to the ruleset. Conversely, the committee does not engage in meaningful self-regulation besides symbolic changes of committee guidelines. In a first instance, when the Council introduced the Focal Point delisting procedure (resolution 1730 (2006)) to circumvent governments unwilling or unable to forward delisting petitions of individuals to the respective sanctions committee, the Council directed its sanctions committees, including the Sudan sanctions committee, to revise their guidelines accordingly. However, the Council did not set a timeframe for the amendments. Though this provided a window of opportunity to overcome decision-making difficulties, however, the amended guidelines adopted in December 2007, more than a year after the Council's directive, did merely incorporate the focal point de-listing procedure.[23] Although petitioners can directly petition their listing, it is without practical significance considering the extremely small size of the list and so far none of the individuals have done so (see section 4.5). Interestingly, the fact that neither individuals nor any governments have issued requests for delisting or humanitarian exemptions clearly confirm that the sanctions measures are not enforced (S/2013/79, para. 153).

In a second instance, in late 2013, upon a committee Chair and UN Secretariat initiative, the committee updated the committee guidelines for three reasons. First, the Chair sought to bring the 2007 guidelines in line with the latest standard procedures. Second, the Chair sought to implement the now-standard rules extending the no-objection procedure from two to five working days for listings since the Sudan sanctions committee was the only active committee that had a shorter than five days

[23] A systematic lexical search of *Security Council Report* Forecasts, *Lexis Nexis, Panel of Experts reports* and *Wikileaks* have not yielded empirical traces that committee members sought to engage in self-regulation at this point.

no-objection procedure.[24] Third, the chair sought to harmonize the remaining guidelines to now-standard language of committee guidelines. While all this followed a general trend to increase transparency (e.g. Working Group on General Issues of Sanctions, S/2006/997, para. 16a) and with the Sudan committee lagging behind most, the changes remain entirely symbolic, were not contentious and even agreed without requiring a single committee meeting (S/2013/788). Accordingly, the updated December 2013 guidelines incorporate a five working days no-objection procedure, restricting holds for a maximum of six months, restricting outgoing member's holds, as well as harmonizing informational requirements for new listings and notification procedures (paras 2c, 4,5,10). Even skeptical members could easily agree to these changes since they would not have any practical consequences.

Concerning sanctions measures, the sanctions opponents clearly signaled that they would undermine every effort to further strengthen the sanctions regime, particularly any geographical extension of the arms embargo or the enforcement of a no-fly zone (Happaerts 2009: 108–110; Wuthnow 2013: 99–101). Even when faced with compelling evidence that Chinese weapons were used in Darfur, China maintained that "its weapons sales to Khartoum are legitimate, since the embargo covers only the territory of Darfur, not all of Sudan", so that it was not China but Khartoum that violated the sanctions regime (Rice 2009b).

Since Council rulemaking was unrealistic, the sanctions supporters, encouraged by the successful attempt to sanction four individuals via a Council resolution (US Permanent Mission to the UN 2006d), actively strived for submitting new sanctions packages to the committee, however, they ultimately did not put them onto a Council vote because they did not expect to receive necessary majorities. After resolution 1672 (2006), the UNSC predominantly focused on transferring the AMIS mission to a UN mission and haggled about the need for Khartoum's "consent" to a peacekeeping mission (resolution 1706 (2006) with abstentions from China, Russia, Qatar), so that the proactive sanctions states held off until early 2007 to not provoke outright Sudanese rejection of 'rehatting' the peacekeeping mission (Wuthnow 2013: 98–99).

[24] The inactive 1518/Iraq sanctions committee (three days) and the 1636/Lebanon sanctions committee (no defined timeframe) are exceptions, see Security Council Report 2013: Annex.

After Khartoum had obstructed DPA implementation and still refused to consent to a UN peacekeeping mission, the Western permanent members intensively consulted to devise a strategy overcoming blockade and present a new sanctions "package" (Lynch 2007; Borger 2007a). As early as 2 February 2007, the UK and the US consulted on "[p]ossible next steps", which included additional sanctions targets, extending the arms embargo to all of Sudan, and imposing a no-fly zone over Darfur (US Embassy London 2007b). In addition, France, the UK and the US were exchanging lists of possible targets. The US proposed to designate the three individuals Awad Ibn Auf (Head of Sudanese Military Intelligence and Security), Khalil Ibrahim (JEM leader) and Ahmad Haroun (State Minister for Humanitarian Affairs), whereas the UK suggested an initial list of nine targets comprising of Ali al-Sharif al-Tahir Ahmed (SAF Western Military Commander), Abdullah Khalif Bashir (Former SAF Western Military Commander), Mohammed Abdel Qadir (SAF Airforce Commander), Mahjzoub Hussein (SLM spokesperson), Commander Adam Abu Jimaiza, Sharif Harir (former SLM spokesperson, NRF member), Ali Karabino, Ahmed Haroun (State Minister for Humanitarian Affairs) and Ali Kosheeb (Janjaweed leader) (US Permanent Mission to the UN 2007c; US Embassy Khartoum 2007). Being skeptical about listing the high-ranking Awad Ibn Auf potentially triggering Chinese and Russian opposition and endangering UK-Sudanese counter-terrorism cooperation (US Permanent Mission to the UN 2007e), the UK explicitly "proposed to present the names for possible designation to Russia and China as an opening position, and use the threat of submitting the names to the Sudan Sanctions Committee to induce China and Russia to pressure Sudan to deliver 1) an immediate improvement in humanitarian situation (…), 2) an end to violations of the arms embargo and to offensive overflights, and 3) complete cooperation on the Heavy Support Package" for the AMIS mission (US Permanent Mission to the UN 2007c).

Within the P3, the French delegation was skeptical about the US list (Awad Ibn Auf and Khalil Ibrahim, for too senior rank, Ahmad Haroun for not endangering ICC proceedings against him) and rather wished to designate "intermediate-level" individuals and "criminal field commanders" (US Permanent Mission to the UN 2007d; US Embassy Paris 2007a). Instead, on March 15, the French circulated a list among the P3 with five potential targets of more intermediate rank. The individuals included Abdallah Safi Al Nour (Former governor North Darfur, major general SAF),

El-Tijani Abdel Qadir Muhammad (Involved in Janjaweed attacks of April 2005 and April 2006), Mohammed Adam Naser (Former SLA chief of staff, member of NRF), Khatir Tor El-Khala (G-19 commander), and Adam Ali Shogar (member of joint committee of G-19 and general coordinator of operations). The Panel of Experts confidential annexes mentioned the latter four individuals (US Permanent Mission to the UN 2007i).

Meanwhile, during sanctions committee meetings as well as P5 consultations, despite the support from many committee members on new sanctions measures and new designations (Casert 2007; Borger 2007b), China and Russia (as well as Qatar, South Africa, Indonesia) made clear that they generally opposed new sanctions including new designations, which would be a "mistake" (US Permanent Mission to the UN 2007e, 2007f, 2007h; Agence France Presse 2007a, 2007b; Lederer 2007d). China directly issued a veto threat in P5 consultations and warned that the US "should not bother to table a sanctions resolution, as Beijing had already decided it 'could not be allowed to pass' (…) and explicitly rejected sanctions as a threat to the political process and further dialogue with Khartoum" (US Permanent Mission to the UN 2007g; Agence France Presse 2007a; Lederer 2007c).

During two informal committee meetings in May 2007 discussing the results of the latest Panel of Experts report which had suggested extending the arms embargo and listing new individuals, among others, the sanctions opponents (China, Russia, Qatar, Indonesia) objected to all recommendations so that the proactive states (US, UK, Slovakia, France, Belgium) realized that any listing initiative in the committee would be futile. The US diplomat deplored that the Italian Chair's "commitment to gain consensus on every issue, no matter how anodyne, has the effect of facilitating the obstructionism of Committee members sympathetic to Khartoum" (US Permanent Mission to the UN 2007k). Now even the Panel of Experts, "[n]oting that the Committee was constrained by the consensus rule for sanctioning individuals" urged UK and US diplomats in private consultations "to force a vote in the Council on new names and sanctions measures" (US Permanent Mission to the UN 2007h).

The US did not raise the matter to the Security Council for several reasons. First, the US had received an explicit veto threat from China and other UNSC members including Russia had made clear that they would neither support new sanctions

measures nor any additional designations. Second, even the proactive P3 had different views on whom to designate. While the P3 certainly would have been able to overcome these differences, it was no longer a unified coalition of sanctions proponents. Even some Western states and allies were increasingly hesitant (Italy, Belgium, Germany, Peru, e.g. US Embassy Rome 2007b). Third, the UN Secretary-General had requested not to pursue sanctions not to undermine his diplomatic initiatives. Fourth, as the US administration quickly wanted to send a visible sign of 'doing something' instead of rallying support within the UNSC, with "remote" prospects to succeed (Abramowitz/Lynch 2007), a unilateral listing would counter domestic pressures for action and be more cost-effective. Accordingly, the US domestically designated three individuals and 31 government-run Sudanese companies on 29 May 2007 (Riechmann 2007; Abramowitz/Lynch 2007).

In late 2007, suddenly Qatar signaled that it intended to designate rebels opposed to Khartoum, which called the P3 into action. During a committee meeting, Qatar requested other delegation's comments on its suggestion to list "JEM leader Khalil Ibrahim and SLM faction leader Abdelwahid el-Nur for their failure to attend the UN/AU-led Darfur mediation talks" and argued "that Ibrahim's and Abdelwahid's absence at the talks constituted an impediment to the peace process per paragraph 3 (c) of resolution 1591". This offer received initial support within the committee (Khalizad 2007a; SCR Forecast December 2007b). Qatar even suggested circumventing the sanctions committee and submitting a Council resolution "to raise the profile of the designations" (Khalizad 2007a). While the sanctions proponents would welcome additional suggestions and realized that "Qatar's unprecedented call for Committee action may represent a unique opportunity for Council action on sanctions (…), while also offering us the leverage to press for a broader list of targets", the US inquired that listings should also include the Sudanese government, which Qatar objected to (Khalizad 2007a).

Simultaneously, the preferences among committee members, including of the opposing permanent members, remained relatively stable, as the committee discussed the Panel of Experts final report in November 2007. The panel suggested to designate five individuals (Khalil Ibrahim, Adam Bahkit, Daoussa Déby, Mohamed al-Tahir al-Aharif, SAF Western Region Commander, Mohammed Abdel Qadir, Commander

Sudanese Air Force), to extend the arms embargo, to impose aviation sanctions on jet fuel and sanctions on six cargo airlines for violations of UNSC resolutions (S/2007/584, pp.6-8). Within the committee, China "objected to any further discussion" about whether or not the arms embargo should be strengthened. Further, China and Qatar opposed aviation sanctions, while Russia reminded that only member states, not the Panel cannot make formal listing requests. In essence, "[c]onforming to predictable positions, China and Russia opposed all of the Panel's substantive proposals, and Qatar and Indonesia attempted to block even the most basic recommendations (…), such as sending follow-up letters to states" that have failed to respond to Panel information requests (Khalizad 2007b). Internally, the P3 agreed that they "should be prepared with a counterproposal" to the Qatari initiative (US Permanent Mission to the UN 2007o).

While the Qataris did not follow through with their initiative on listing the two rebel commanders (SCR Forecast December 2007b) and all other Panel of Experts recommendations had been blocked (Khalizad 2007c), the Qatari attempt elicits revealing comments about the nature of sanctions committees. First, when committee members share a common interest in getting targeted sanctions to work, they might actually enter an arguing process about the applicability of sanctions on a certain group of individuals. Second, the episode generated an intriguing comment by the US ambassador in a cable to the State Department:

> "[T]he Committee is not empowered to adopt new sanctions measures--only the Council can do this—(…). Though the Committee did not agree to endorse any of the Panel's substantive recommendations to the Council, the Council may consider these recommendations at any time on the initiative of a Council member. We should not read too much into positions taken in the Committee adverse to ours as consensus rules allow members a cost-free veto on any issue--no votes are taken and deliberations are not public. Elevating an issue for Council discussion or vote makes adverse positions more difficult to sustain. We should keep this avenue in mind if there is interest in enacting any of the recommendations" (Khalizad 2007b).

In early 2008, the P3 began a new sanctions initiative to pressure Khartoum into finally consenting to UNAMID deployment, while China still opposed further sanctions (US Permanent Mission to the UN 2008a, 2007p). In May 2008, the US

forged a new sanctions list of four individuals (Khalil Ibrahim, Daoussa Deby Itno, Chadian government adviser providing support to non-state armed groups, Ahmad Muhammed Harun, and Awad Ibn Auf) and informally sought P5 reactions (US State Department 2008b; Khalizad 2008b). The UK supported the list. France supported three names, however, resisted to Deby, presidential advisor and half-brother of the Chadian president (S/2007/584, para. 124), because this would undermine Chadian-EU cooperation on EUFOR. In turn, the US offered to support "one or two" Chadian rebels to win French support for Deby (US State Department 2008e). Russia informally pledged "not to obstruct (…) efforts to sanction any of the four" (Khalizad 2008b). Crucially, China was opposed and reasoned that "[f]irst, (…) the imposition of sanctions could affect the Government of Sudan's 'fragile' acceptance of the deployment of [UNAMID] (…). Second, sanctioning the four individuals could affect the Sudanese Government's willingness to participate in political negotiations (…). Third, 'technically speaking,' China remains unconvinced that the information (…) provided so far makes a case for sanctioning the four individuals. Fourth, noting that China abstained on UNSCR 1591, (…) China continues to be skeptical of the utility of sanctions in solving the Darfur crisis" (US Embassy Beijing 2011). Importantly, China explicitly cautioned the prudence of the measure and urged "the United States to 'think twice' about adding the four names" (US Embassy Beijing 2008).

To achieve a successful outcome, the US explicitly assembled a decision package coupled with a threat to use a public Council vote would win Chinese acquiescence within the committee. An internal US cable from Washington to New York outlined the envisaged strategy. The US hoped that China "may calculate that their national interests are better served by not opposing any of the four names in committee, which would avoid a very public vote in the Security Council to designate the four individuals. It would be an acceptable Committee outcome if consensus is only reached on designating IBRAHIM and DEBY" (US State Department 2008b). US diplomats should explicitly threaten the Chinese to refer the matter to the Council arguing that while

> "[t]he U.S. will propose a list of four names (…) to the UNSC Sudan Sanctions Committee", achieving "Committee consensus would be quicker and generate far less media attention than proceeding in the Security Council [because] Committee meetings are closed to the public and no public vote is taken. If

> consensus is not reached, we will be compelled to pursue imposition of sanctions on these individuals through a vote in the Security Council, as was done in 2006" (US State Department 2008b).

After being focused on UNAMID extension (resolution 1828 (2008)), in early September 2008, the US called a final P3 meeting to discuss a potential listing proposal (US State Department 2008e). However, during the meeting the US realized that neither the French, nor the British any longer supported the proposal. France believed that "new sanctions would derail ongoing mediation and dialogue efforts underway involving Chad, Sudan and the various rebel movements (…)". Procedurally, the French cautioned that pursuing a committee listing proposal might severely backfire. Because the committee did consider every listing request separately in a no-objection procedure as outlined in committee guidelines, "'Sudan's friends' might use the Sudan Sanctions Committee's procedures to ensure that the Committee only approves sanctioning the anti-government rebel, Khalil Ibrahim, while rejecting the other three names. (…) If this were done, (…) Sudan would win a propaganda victory and be let off the hook". The US acknowledged that "[t]his is theoretically possible. The Committee approves or rejects names individually, not on a slate -- therefore, Libya and/or China could theoretically place holds on all the names except Ibrahim" (US Permanent Mission to the UN 2008d). The UK had concerns because "the timing of this proposal -- with the ICC issue looming and just before the UN General Assembly ministerial week – was poor" (US Permanent Mission to the UN 2008d).

Lacking P3 support and facing a likely failure, the US did not further pursue this listing request, neither in the committee, nor in the Council. The US Permanent Mission advised the State Department against any further committee action:

> "In light France's (sic!) position (…), the UK's lack of enthusiasm and China's near-certain opposition (…), USUN recommends holding off temporarily on this initiative until we are able to move forward with firm P3 support. If we propose new names for sanctions without P3 support, we run a high risk of public failure that would undermine accomplishing our other goals in Sudan and antagonize our allies. USUN also recommends against (…) forcing a Council vote on our proposed names [because] this course of action would worsen an already tense atmosphere in the Council and have unpredictable consequences, such as the likelihood Council members would insist on

inserting unacceptable ICC language in an (sic!) any sanctions resolution“ (US Permanent Mission to the UN 2008d).

To overcome committee stalemate when again all Panel recommendations had been rejected in late 2008 (US Permanent Mission to the UN 2008f), the P3 deliberated on how they could increase pressure on Sudan and sympathetic committee members below the level of sanctions designations, without success. Such measures would have included media briefings “when China or Russia block a proposal”, summoning Sudanese and Chadian ambassadors “for direct questioning”, inviting “UN/AU/EU officials” and national experts to “highlight SCR violations”, and urging NGOs to submit reports to the committee (US State Department 2008f). In December 2008, the P3 orchestrated that Belgium requested to invite the Sudanese and Chadian ambassadors, while Human Rights First offered to brief the committee on human rights violations. However, Russia and China fiercely objected even to soft measures so that the Chair was only allowed to “simply ‘remind’ the Perm Reps that they could address the committee if they so chose” (US State Department 2008g). In the following, Sudan simply refused to meet with the committee (Rice 2009a).

The fact that two permanent members continued to oppose measures on Sudan stabilized the proactive members’ expectation that committee listing proposals would fail and that previous decisions would remain non-implemented. First, that even the proactive P3 do not submit listing proposals, although they strongly prefer listings and prepare relevant requests, is evidence of the members’ perception that any of their proposals would be rejected. Second, the sanctions regime provided for procedures to delist individuals and to grant humanitarian exemptions. However, neither have these provisions originated from decision problems, nor has any state filed delisting or exemptions request (S/2013/79, paras 140-149). Third, after resolution 1672 (2006), while the committee implemented some symbolic recommendations such as entering an Interpol Special Notice Agreement in 2012 (S/2012/978, para. 15), updating the listing information in 2013 (SC/10938, SC/11112, SC/11436) or issuing narrative summaries for the four listed individuals in 2014, none of the substantive Panel of Experts proposals have been incorporated, despite delivering specific names of violators (S/2007/584, S/2011/111, para. 208; S/2013/79, para. 16 and several Committee Annual Reports). Fourth, skeptical states

have seriously delayed one Panel of Experts report and blocked another referring to inaccuracies or that the committee does not have to publish the reports (What's in Blue 2011a, for report see S/2011/111, (SCR Forecast April 2011; SCR Forecast January 2012; SCR Forecast April 2012; SCR Forecast July 2012)SCR Forecasts April 2011, January 2012, April 2012, July 2012). Fifth, that the Panel of Experts did not provide recommendations on committee procedures and even informally called upon proactive states to circumvent the committee highlights that panel members did not perceive rulemaking as a viable option. Thus, its recommendations mainly focused on arms embargo implementation, compliance with the targeted sanctions, and suggesting individuals for listing. Sixth, all sanctions measures remained essentially non-implemented, while systematic violations of the arms embargo and the targeted sanctions have been extensively documented (most recently, S/2011/111; S/2013/79, paras 144-145; S/2014/87; S/2015/31).

In conclusion, the fourth case episode shows that proactive members did no longer believe that neither rulemaking, nor a Council resolution would yield successful outcomes, although these actors invested significantly into devising a strategy to overcome the skeptics' blockade. Sanctions opponents over the years successfully achieved their desired outcome, i.e. to avoid any further pressure against Sudan. Overall, as a result from the preference constellation and the lack of implementation decisions, the effectiveness of the sanctions regime was severely limited.

8.3 Chapter summary

The Sudan sanctions regime represents a baseline case that operates according to the logic of power-based decision-making in uniform decision processes and displays the expected effects associated with this logic. At least one permanent member of the Security Council rejects the imposition of sanctions on the target country and pursues a dominant strategy of blockade. Therefore, the case lies outside the described scope conditions of committee governance. The effects of committee governance only occur, if actors face a coordination situation in which focal points are influential. Accordingly, the sanctions regime entirely follows a logic of bargaining over package deals. Hence, the decision taken within the Sudan sanctions regime mirror pure

bargaining outcomes in the form of package deals and reflect the constellation of interests among powerful Council members. Despite delegating to a committee, the case of the Sudan sanctions regime follows the logic of a uniform, undifferentiated decision process in which the sanctions committee does not play any major role. This finding highlights that power-based decision-making is a second logic besides rule-based decision-making.

The initial stage of the Sudan sanctions regime illustrates that the transfer of decision-making competencies to a sanctions committee does not inevitably prompt rule-based decision-making, because every member possesses the ability to block decisions in the committee. The appointed Sudan sanctions committee has not listed any individuals and entities subject to targeted sanctions due to the veto position of three committee members. The preference constellation is also visible in the few committee listing proposals. Committee members do not even discuss the merits of listing proposals, but rather reject listings out of principle. This stage shows that the committee can indeed be subject to decision blockade. This finding does not contradict a theory of committee governance, because the committee can indeed fall prey to the danger of decision blockade, despite the fact that the Council actually assigned decision tasks to the committee.

The second stage of the Sudan sanctions regime shows that proactive members principally consider rulemaking as a viable option to overcome committee stalemate. However, as some members prefer inaction over action, committee members do not find themselves in a coordination situation where focal points would provide opportunities to overcome blockade in the committee stage. The regulation of committee decision-making does not work, if even one member pursues blockade as dominant strategy and can therefore simply reject any set of unfavorable rules. Accordingly, skeptical members objected to all efforts for changing procedural (e.g. the consensus requirement) and substantive rules (e.g. listing criteria).

The third stage illustrates that decision-making in a uniform decision process yields power-based decision-making. In fact, proactive members view bargaining over the contents of a Council resolution as a principle and constantly available route to circumvent the blockade in the sanctions committee. In this stage, because skeptical members block their decision proposals within the committee, the proactive

members elevate the listing request to the Council calculating that a public Council vote would raise disincentives to veto the marginally important requests. The content of the decision proposal reflected a balanced package that traded-off two rebel commanders with two mid-level Sudanese officials. This way, the Council imposed sanctions on four individuals (resolution 1672 (2006)).

In a fourth stage, the proactive committee members sought to overcome blockade in the Sudan sanctions committee through pursuing further package deals with the option of raising decision packages to the Security Council. Within the committee, the three Western permanent members actively spearheaded listing requests, but faced resistance from China and Russia. The proactive members refrained from introducing a package deal in the committee because the committee treats decision requests separately, which in this case favors the skeptical members obstructionism. Ultimately, sanctions proponents were no longer willing to risk the failure of a Council draft resolution imposing sanctions on a second package of listing requests. As a consequence, neither the committee nor the Council has adopted any further meaningful decisions in the Sudan sanctions regime. Even proactive members no longer formally submitted further listing requests to the Council expecting a likely Chinese veto, while the committee remained blocked. In fact, the sanctions regime is entirely ineffective as there are only four listed individuals and the sanctions measures remain entirely unenforced.

9 The Iran Sanctions Committee – Sanctions in the Context of Nuclear Non-Proliferation

On 31 July 2006, in reaction to the Iranian nuclear programme, the UNSC demanded that Iran ceases all enrichment-related and reprocessing activities and resumes its cooperation with IAEA inspectors (resolution 1696 (2005), paras 1-2, 8). By adopting resolution 1737 (2006) in December 2006, the Council imposed an assets freeze, commodity sanctions on proliferation-related materials and items related to ballistic-missile programs and provided a first list of sanctions targets as well as lists of embargoed items. The sanctions regime was modified and tightened through subsequent resolutions introducing an embargo on the import from (resolution 1747 (2007), para. 5), the export to Iran of certain conventional arms (resolution 1929 (2010), para. 8) and a travel ban on listed individuals (resolution 1803 (2008), para. 5). The Council also adopted further subsidiary measures including providing a legal basis for unilateral and regional financial sanctions as well as for cargo inspections. The UNSC created a sanctions committee to monitor sanctions implementation and to add or remove individuals and entities from its sanctions list as well as to determine which additional nuclear- and ballistic missile-related goods should be subject to an embargo (resolution 1737 (2006), para. 18). In 2010, the UNSC established and subsequently extended a Panel of Experts (resolution 1929 (2010), para. 29). The sanctions committee was mid-active and met about six times a year (with the exception of 25 meetings in 2007). However, after the Al-Qaida and Taliban regimes, the Iran regime had the third-largest sanctions list.[25] With the conclusion of the P5+1 – Iran nuclear deal in July 2015, the sanctions regime was partially lifted (Joint Comprehensive Plan of Action, resolution 2231 (2015)).

Despite the abundance of literature about the Iranian nuclear conflict, the predominant case-specific literature has so far neglected the workings of the Iran sanctions committee. A large share of the existing literature is foreign-policy oriented and analyzes foreign policy strategies in containing Iran's nuclear program (Waltz 2012), the effectiveness of sanctions (Takeyh/Maloney 2011), regime persistence in

[25] See: http://www.un.org/sc/committees/1737/1737.htm [last access: 29 April 2015].

the wake of sanctions (Borszik 2014) or simply the conflict's evolution (Kerr 2012, 2014). More theoretically-driven scholarship focusses on the global non-proliferation regime (Verdier 2008) or the prospects of a negotiated settlement (Sebenius/Singh 2013). The specific UNSC sanctions literature merely is of descriptive nature (Farrall 2007: 458–463; Gottemoeller 2007: 105–107), or focusses on the patterns of targeting and the effectiveness of targeted sanctions (Wallensteen/Grusell 2012) and the UNSC negotiation process with a view on powerful actors (Wuthnow 2013, 2010; van Kemenade 2010). While transgovernmental networks tasked with producing dual-use items lists have been extensively studied, including the Nuclear Suppliers Group (NSG) and the Missile Technology Control Regime (MTCR), the literature completely omits UNSC dual-use sanctions on Iran (Nikitin et al. 2012; Eilstrup-Sangiovanni 2009; Lipson 2007; Anthony et al. 2007).

To close the gap in the existing literature, the present chapter seeks to trace effects of committee governance on decision-making and the content of the decisions taken within the Iran sanctions regime. Although sanctions proponents favored power-based decision-making in the Council over committee decision-making for imposing sanctions and determining sanctions targets from 2006 to 2010, as soon as they transferred an explicit decision function to the committee and submitted first decision requests based on externally verified information, they established a system of divided labor that produces rule-based decisions. Concerning the sanctions on nuclear and ballistic missile related goods, the Council almost completely made use of externally provided trigger lists that introduce knowledge-based solutions to the regulatory problem. The episode on sanctions exemptions shows that sanctions committees operated according to the rules provided and that even powerful members have to accept decisions unfavorable to them when these conform to rules.

The Iran sanctions regime allows for comparing the variation between Council power-based decision-making and committee rule-based decision-making. In fact, Council members have two equally plausible options to pursue a sanctions regime, but both come with significant consequences. While Council decision-making operates according to the logic of package deals, committee decision-making requires submitting well-reasoned listing proposals that suffice a high evidence threshold. Simultaneously, the Iran sanctions regime is suitable for a comparison of two

important decision functions within the same sanctions regime, namely determining individuals and entities subject to targeted sanctions, granting exemptions to targeted sanctions on the one hand and determining embargoed dual-use items on the other hand, both of which present a similar regulatory decision problem.

The chapter continues in the following order. In the next section, I assess the distribution of UNSC member's interest on sanctions against Iran and whether or not I would expect the causal mechanism to be present in this case. In the second section, first, I consider the logic of decision-making in early phase of the sanctions regime entirely pursued within the Council without recourse to a sanctions committee. Second, I analyze three theoretically-informative case episodes subdivided along the major decision functions, the determination of dual-use goods subject to commodity sanctions, listing and delisting of individuals and entities, and granting of exemptions to targeted sanctions. The aim is to evaluate, if and how the UNSC and sanctions committee regulate committee decision-making, how the substantive and procedural decision criteria affect committee decision-making and how two different types of sanctions affect decision-making. The chapter is concluded with a summary of major findings.

9.1 The origins of the Iran sanctions regime

In the 1960s, with the assistance of Western countries, Iran initiated a nuclear program and built a first research reactor. At the same time, it concluded international agreements that commit Iran to peaceful use of nuclear technologies. Iran ratified the Non-proliferation Treaty in 1968, which obliges it "not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices" (Article II) and requires any state party to adopt an IAEA safeguards agreement to verify compliance, which Iran and the IAEA concluded in 1974. IAEA's role is to confirm if declared items were correctly declared and to investigate if and what was not declared (International Atomic Energy Agency 2002). A significant complicating factor is that nuclear-technologies are inherently dual-use and can be used for peaceful purposes such as energy production and for nuclear weapons alike. For instance, any nuclear program requires the enrichment of ^{235}U (uranium) isotopes, usually only concentrated around

0.7% ^{235}U in natural uranium ore, to about 5% ^{235}U for nuclear reactors and at least 80% ^{235}U for weapons-grade uranium. Alternatively, plutonium ^{239}PU (plutonium) or ^{233}U within spent nuclear fuel can be reprocessed into weapons-grade material (Kerr 2012: 1–7; Anthony et al. 2007: 7–11; Ronen 2010).

The non-proliferation dispute surrounding the Iran's nuclear program emerged in August 2002 when information surfaced that Iran has constructed secret nuclear facilities in Natanz and Arak. Since Iran had not declared these facilities to the IAEA, this constituted a violation of Iran's obligations and led to IAEA investigations (Kerr 2012: 1–7; Wuthnow 2013: 77–78). Subsequent IAEA reports found Iran in violation of the safeguards agreement because Iran had not sufficiently cooperated with IAEA and had developed new enrichment technologies including centrifuges. In fact, a military purpose of Iran's nuclear program remained viable. The IAEA stated that "Iran's policy of concealment (…) has resulted in many breaches of its obligation to comply" (GOV/2004/83, para. 107) and led to the IAEA Director-General's conclusion "(…) that Iran had failed in a number of instances over an extended period of time to meet its obligations under its Safeguards Agreement with respect to the reporting of nuclear material, its processing and its use, as well as the declaration of facilities where such material had been processed and stored" (GOV/2005/67, para. 4; see virtually every IAEA report on Iran since 2002, e.g. GOV/2006/15, GOV/2006/27). In accordance with the IAEA statute, in 2006, after three years of unsuccessful EU-3 (i.e. France, Germany and UK) diplomatic efforts and continued Iranian defiance, the IAEA Board of Governors referred Iran to the UNSC (GOV/2006/14; see Bolton 2007: 323).

In response to the nuclear conflict, Western powers, particularly the US, wanted an increased UNSC involvement and mainly pushed for sanctions. These powers sought to prevent Iran from obtaining nuclear-weapons capability and invested significant diplomatic resources to this cause. Interestingly, Germany as an infrequent non-permanent member was engaged in all major sanctions resolutions since 2006, even in usually highly secretive P5 deliberations forming the so-called P5+1 group (i.e. P5 plus Germany, also referred to as E3+3 or EU3+3). This is mainly attributed to Germany's economic relations with Iran and its leading role in EU foreign policy so that it became the "the sixth permanent member" on Iran (Sauer 2009: 119–121).

Thus, all major sanctions resolutions have been drafted by the so-called EU-3 which incorporates France, Germany and the UK, with the exception of resolution 1929 (2010) which was sponsored by EU-3 and the US (see S/PV.5500, S/2006/589; S/PV.5612, S/2006/1010; S/PV.5647, S/2007/170; S/PV.5848, S/2008/141; S/PV.6335, S/2010/283).

On Iran, the P5+1 faced a coordination situation. First, all P5+1 members shared a common interest in preventing Iran from gaining nuclear weapons. While Western powers perceived a nuclearized Iran as a direct threat to their and Israel's security as well as to regional stability, also China and Russia had a strong interest in non-proliferation. Both have repeatedly stressed their concerns about Iran's nuclear program (S/PV.5500, S/PV.5612). China was worried about continued Iranian non-compliance with IAEA and the destabilizing effects of a nuclearized Iran (Wuthnow 2013: 75). Russia "(…) did not want 'under any circumstance' to see the emergence of a nuclear Iran (…). Not only would it upset the stability of the Gulf, but it would fatally compromise the nonproliferation regime". In fact, Russia perceived Iran's behavior as "incomprehensible" (US Embassy Moscow 2007a). Second, economic interests considerably varied (see Table 13). When the UNSC imposed sanctions in 2006, among Iran's major trading partners was the EU, with large trade shares held by Italy (6 percent), Germany and France (each 5 percent). China (12 percent) was about to become the single most important trading partner of Iran and had a strong interest in accessing Iranian oil and gas reserves for satisfying its growing energy consumption, but also re-exported refined petroleum. In particular, China was keen on avoiding trade sanctions on natural resources and goods as it frequently exchanged resources for goods (Kleine-Ahlbrandt/Small 2008: 41-42, 52; Wuthnow 2013: 75; van Kemenade 2010). Russia (2 percent) had little interest in Iran's natural oil and gas, but was the Iran's largest supplier of nuclear technologies, including constructing the Bushehr reactor and providing uranium supplies (Anthony et al. 2007: 60–63). The UK only held a small trade share (1 percent), while the US, having subjected Iran to sanctions since the Islamic Revolution, had almost negligible trade relations (0.2 percent).

Table 13: P5+1 and EU Trade Volume with Iran in Billion USD, 2002-2012

Year	2000	2002	2004	2006	2008	2010	2012	06-12 % change
China	2.5	3.7	7.0	14.4	27.8	29.4	36.5	152
Russian Federation	0.7	0.8	2.0	2.1	3.7	3.6	2.3	9
France	1.8	2.2	4.6	5.4	6.2	3.5	1.3	- 77
United Kingdom	0.51	1.2	0.89	0.94	0.90	0.75	0.35	- 63
United States	0.19	0.19	0.24	0.25	0.79	0.31	0.26	6
Germany	2.0	2.4	4.9	5.7	6.6	6.3	3.8	- 34
EU-28	12.8	13.2	25.1	32.3	37.6	34.2	16.7	- 48
Total	**20.4**	**23.7**	**44.8**	**61.1**	**83.5**	**78.1**	**61.2**	**0**

Note: Total Trade Volume combines Import and Export. Data as reported by relevant state (Reporter) to Iran (Partner). Source: UN Comtrade Database, available at: http://comtrade.un.org/data/ [31 July 2015].

Third, whereas the P3, in particular the US, had a strong interest in legally-binding sanctions (see e.g. US, UK, France S/PV.5500), Russia and China were skeptical of sanctions as an effective means to solve the nuclear crisis (Wuthnow 2013: 75–76; SCR Forecast May 2006a; SCR Forecast June 2006b). In essence, China warned that sanctions could "lead to complications" (China, S/PV.5500) and that "diplomatic efforts (…) should be strengthened" (China, S/PV.5612). Both were determined to prevent automaticity towards military intervention (Russia, S/PV.5500). Altogether, while all P5+1 had an interest in a non-nuclearized Iran, the US advocated sanctions most vocally, the EU-3 favored sanctions after expediting the negotiations track for economic interests (Bolton 2007: 130–164), and Russia and China were hesitant. Although members shared an interest in preventing Iran from gaining nuclear weapons, they differently assessed if and how sanctions should be applied. Further complicating, the strong economic interests involved required significant bargaining over the scope of sanctions measures.

As a result of the diverging preference constellation, actors had principally two ways to solve the resulting coordination problem. Either the proactive members could pursue a larger package deal in a power-based bargain entirely on the Council level, including the sanctions measures and major implementation decisions such as sanctions targets. In this case, the outcomes are expected to entirely reflect the interest constellation among powerful members. Alternatively, proactive members

could transfer the task to determine implementation decisions to a sanctions committee. In this case, due to the diverging interests among committee members, one would expect to see the effects of committee governance that trigger rule-based decision-making.

Despite the Council-centric decision-making on Iran sanctions in the initial stage of the sanctions regime, the Council formally provided initial decision criteria for the committee with respect to its decision functions on individual targeted sanctions and commodity sanctions. The Council determined that those individuals and entities "(…) as being engaged in, directly associated with or providing support for Iran's proliferation sensitive nuclear activities or the development of nuclear weapon delivery systems, or by persons or entities acting on their behalf or at their direction, or by entities owned or controlled by them, including through illicit means (…)" are eligible for listing (resolution 1737 (2006), para. 12). Since initially the travel ban was voluntary, the UNSC only provided for exemptions to the assets freeze for particular expenses (para. 13). Concerning the listing of non-proliferation related items, the Council stipulated that the committee should determine "any additional items, materials, equipment, goods and technology, (…), which could contribute to enrichment-related, or reprocessing, or heavy water-related activities, or to the development of nuclear weapon delivery systems" (para. 3d).

9.2 Theoretically-relevant case episodes of decision-making

The Iran sanctions regime allows for comparing two logics of decision-making on UNSC sanctions within the context of the same conflict. As any UNSC sanctions regime, the Iran sanctions regime offered two institutional forms of decision-making, which UNSC members could equally pursue. Either, UNSC members could decide to retain the Iran issue in a uniform Council process without recourse to a committee. As a consequence, UNSC members, in particular the powerful P5 would engage in bargaining with the aim of accumulating larger sanctions decision packages through linkages and side-payments. Sanctions decisions on Iran would then have purely reflected the constellation of interests among powerful members. Alternatively, UNSC members could transfer sanctions decision functions to a sanctions committee

and thereby expectedly prompt the effects of committee governance. Because diverging preferences could no longer be compensated through linkages, decision in a sanctions committee would have reflected increasingly rule-based considerations.

9.2.1 Power-based decision-making in the Council: The logic of imposing rounds of sanctions

The first phase of the sanctions regime from 2006 to 2010 entirely follows the logic of grand politicized bargaining on the Security Council level. Sanctions supporters deliberately kept the Iran sanctions agenda within Council confines to escalate sanctions within larger decision packages including implementation decisions, after negotiation initiatives have stalled and the IAEA has determined Iranian non-compliance. In essence, later sanctions resolutions did not replace but complement earlier resolutions with new or strengthened sanctions measures and none of them have a sunset clause. The P5+1 considered imposing sanctions on six different types of sanctions measures: arms embargo, targeted sanctions (travel ban and assets freeze), a trade embargo on proliferation related items for nuclear weapons and delivery systems including dual-use items, cargo inspections, sanctions on economic trade (e.g. oil industry) and access to financial markets. Altogether, this enabled sanctions proponents to adopt remarkably biting sanctions in four resolutions (1737 (2006), 1747 (2007), 1803 (2008) and 1929 (2010)) including dual-use sanctions, arms embargoes, permissible cargo inspections and targeted sanctions with the third largest sanctions list in just four years of Council negotiations.

The Iranian nuclear conflict posed significant challenges for UNSC members for two reasons. First, the P5 faced strongly diverging interests. While advocates (France, UK, US) and skeptics (China, Russia) agreed that "Iran's unwillingness to comply with IAEA Board resolutions is unreasonable and constitutes a serious problem for the international community", they significantly disagreed about the consequences of Iranian defiance (SCR Forecast May 2006a; SCR Forecast June 2006b). While the sanctions supporters wished to impose tough sanctions early on, sanctions sceptics, preferred measures tailored to the proliferation of nuclear weapons and delivery systems and particularly vowed against sanctions that would undermine their business interest (SCR Forecast November 2006b). As a result, there was an unstable

consensus on a small but incremental escalation of measures to provide a "dual-track" approach consisting of incentives in terms of a negotiation package and applying dosed pressure (SCR Forecast May 2006a). However, the P5 still had to determine the exact type of pressure. Second, the strategy of sanctions rounds is closely tied to Iran's behavior. To derail the delicate and unstable P5 consensus on sanctions, Iran continuously pursued a tactic of acceding to a negotiated settlement and ceasing its enrichment activities, only to withdraw from commitments shortly thereafter. For instance, Iran accepted to sign the IAEA additional protocol, only not to ratify it subsequently. Previously, this strategy prevented the IAEA Board of Governors from referring the Iranian nuclear dispute to the UNSC for three years (Kerr 2014: 3–5; Bolton 2007: 130–164; Sciolino 2006).

Up until 2010, the proactive members preferred to pursue the Iran sanctions regime almost entirely on the Council level instead of the committee, even though implementation decisions could be taken within a sanctions committee. While sanctions measures have to be imposed and amended in a Council resolutions, even after resolution 1737 (2006), Council members preferred to keep negotiations on Iran sanctions including designations within the Council. Faced with two options how best to proceed, sanctions supporters believed to maximize their payoff in the Council rather than in a functionally differentiated governance system. In the Iran sanctions regime, proactive members deliberately did not invest into getting the functionally differentiated listing system operational, but preferred negotiations on the Council level for several reasons.

On the one hand, besides seeking to impose new sanctions measures that required a Council resolution, UNSC resolutions had the advantage that they fixed the P5 consensus at a given point in time and used a certain window of opportunity for adopting additional designations. These resolutions contained an annex listing the sanctions targets, which was part of Council negotiations. Thus, actors negotiated the measures and the targets at the same time. In fact, negotiations on the Council level resembled a pure bargaining logic involving significant trade-offs. This could mean that actors dropped one entry from the list but got something in return on a different operative paragraph (or the opposite way). In that respect, actors could trade sanctions measures and targets so as to compensate negative payoffs for a skeptical member.

Additionally, sanctions targets were negotiated as a comprehensive package and not as single, separated requests, and thus did not have to have any relation to decision criteria (two separate interviews with UN member state officials, New York, December 2013).

On the other hand, sanctions proponents were insecure if their efforts might not be derailed or significantly delayed in a sanctions committee, even though they did not anticipate an outright decision-making blockade by sanctions skeptics (US Permanent Mission to the UN 2007a). Russia emphasized that they were prepared to prevent the sanctions regime from becoming a "life of (..)[its] own which could injure Russian interests" (US Embassy Moscow 2006c) and China was hesitant to move beyond resolution 1737 (2006) (US Embassy Beijing 2007a). Because the committee could easily fall prey to changing interests under consensus requirement, leaving it to the committee would have created a certain amount of uncertainty about listing prospects. For instance, the sanctions supporter's concerns seem to have been immediately confirmed as skeptical members sought to delay the substantive committee work through haggling over procedures (US Permanent Mission to the UN 2007a). In February 2007, the committee was "not yet fully operational because it has not yet adopted its procedural guidelines" (SCR Forecast February 2007). A US diplomat was concerned that "[a]s in the North Korea Sanctions Committee, we expect extensive and unconstructive edits from Russia and China to constrain the Committee's substantive work" (US Permanent Mission to the UN 2007a). After six months and a number of almost weekly informal meetings discussing the guidelines, the committee adopted a short 3.5 page guidelines (S/2007/780, para. 6).

Pursuing a strategy of enhancing sanctions within the Council (and not within a sanctions committee) followed the logic of package deals and power-based decision-making, without recourse to a sanctions committee. The resolutions accumulated a number of issues, including implementation decisions, into larger package decisions. Powerful members devoted significant resources into the negotiation processes in order to bring the negotiated resolution language closer towards their ideal points. While rules did not become a source of influence, powerful members did not accept unfavorable resolution language unless negative payoffs were compensated through linkages. Consequently, the content of resolutions entirely reflected the distribution of

interests among powerful members. The sanctions proponents repeated the logic of package deal four times within the Security Council (see Table 14).

Table 14: Iran Sanctions Resolutions 2006-2010

Date	Resolution	Sanctions Measures	Annexes
23 December 2006	1737 (2006)	- Targeted sanctions (assets freeze only) - Commodity sanctions (MTCR list, only NSG Part 1 list of nuclear material, equipment and technology)	12 individuals 10 entities
24 March 2007	1747 (2007)	- Embargo on arms exports by Iran	15 individuals 13 entities
3 March 2008	1803 (2008)	- Extended targeted sanctions (travel ban) - Extended commodity sanctions (NSG Part 2 list of dual-use items) - Cargo interdiction regime	13 individuals (AF) 12 entities (AF) 5 individuals of res. 1737 & 1747 (TB)
9 June 2010	1929 (2010)	- Arms embargo on Iranian arms procurement - Strengthened cargo interdiction regime	All previously listed individuals subject to AF and TB 1 individual 40 entities

Note: Author's illustration. Source: http://www.un.org/en/sc/meetings [29 April 2016]. 'AF' translates 'assets freeze'. 'TB' translates 'travel ban'. 'NSG' translates 'Nuclear Suppliers Group'. 'MTCR' translates 'Missile Technology Control Regime'.

In a prelude to sanctions, after inconclusive EU3 – Iran negotiations, the UNSC issued a significantly watered-down presidential statement demanding Iranian compliance with IAEA Board of Governors resolutions and requesting a compliance report by the IAEA Director-General (PRST/2006/15; Hoge 2006b; Bolton 2007: 324–325; Wuthnow 2013: 77). After the IAEA submitted its report with negative conclusions, the UK and France circulated a first draft resolution. Only after Iran rejected yet another P5+1 negotiation package, Russia and China accepted that the UNSC should take cautious further measures and accordingly, the UNSC adopted a first resolution in July 2006. The resolution demanded that Iran suspended its nuclear weapons program and fully collaborated with IAEA. In case of non-compliance, upon an IAEA compliance report, the UNSC threatened to impose "appropriate measures under Article 41 of Chapter VII" (resolution 1696 (2006)) thus ruling out military intervention (Wuthnow 2013: 77–78; Mousavian 2012: 250–251; SCR Forecast August 2006).

In August 2006, when the IAEA found Iran in non-compliance, the issue of sanctions imminently came up among the P5, which faced a considerable coordination problem. While the US favored tough sanctions, Russia and China were skeptical, with the UK and France in between (Wuthnow 2013: 78). For instance, US cables reveal that "China agrees Iran needs to be penalized for its behavior but the penalty should fit the crime" (US Embassy Beijing 2006a). This constellation led to a "long, complicated, sensitive" negotiation process (Gootman 2006) in which the permanent members had to carve out the exact type of sanctions measures, the applicable targets and the consequences of non-compliance.

To impose sanctions on Iran, the sanctions proponents first had to negotiate within the Council, and engaged in a prolonged bargaining process over the scope of sanctions. On 22 October 2006, the EU3 and the US discussed a first draft resolution, which was circulated among the P5+1 on 24 October with the following measures: a trade embargo on "items, materials, equipment, goods and technology which could contribute to Iran's nuclear and ballistic missile programmes, including those set out in documents S/2006/814 [complete NSG list] and S/2006/815 [complete MTCR list]" (leaked draft resolution as per Japan Economic Newswire 2006a, para. 4) and the provision of technical, financial assistance and training for Iran's nuclear and ballistic missile related activities (para. 5), a travel ban and asset freeze on individuals and entities involved in such programs named in a resolution annex (paras 7,9), sanctions exemptions for targeted sanctions (paras 8,10-12), exempting items for the construction of the Bushehr nuclear reactor from measures (para. 14), but not the nuclear fuel (subject to prior UNSC approval), creating a sanctions committee for follow-up decisions on targeted sanctions and items (para. 16) and threatening further sanctions in case of non-compliance (para. 22) (Burkhardt 2006; Aziakou 2006c; Bolton 2007: 335–337). Russia and China rejected the text arguing that "the current draft is too broad" and that "[t]he focus of the resolution's demands should be narrowed to preventing Iran from receiving assistance that would help with sensitive elements of a nuclear fuel cycle". Therefore, the resolution's annex and the "measures, such as a travel ban and assets freeze, go beyond what was agreed to by Foreign Ministers" (Bolton 2006c). Instead, Russia suggested "a phased approach" starting with measures on proliferation only (Lederer 2006g; Bolton 2006c). Concerning the Bushehr nuclear reactor, Russia resisted to be singled out and insisted

on a general rule because "[i]f an item were deemed safe for Bushehr, then certainly it would be safe for other peaceful projects as well" (Bolton 2006c).

In response to Russian objections, on 30 November, the EU3 dropped references to the Bushehr reactor and instead included an exemption for light-water reactors (US Embassy Moscow 2006b; Cooper 2006). To accommodate further Russian and Chinese opposition, on 7 December the EU3 circulated a revised draft. The draft lowered the scope of dual-use sanctions so that only "nuclear material, equipment and technology" (NSG Part 1) but not "dual-use" items (NSG Part 2) would be banned. In addition, an exemption to the MTCR list for short-range Unmanned Aerial Vehicles (UAVs) was included. Individual targeted sanctions and a list of targets in the annex including its 12 person and 11 entities (Agence France Presse 2006f) were maintained but an exemption was added for international travel in the framework of IAEA cooperation. Moreover, the IAEA should report on compliance within sixty days, not thirty days. Finally, the draft suggested that sanctions would be immediately lifted in case of compliance (SCR Update Report No.4 2006; Lederer 2006h). While Russia and China now agreed to limited proliferation-sensitive sanctions, they still objected to WMD financing sanctions, the assets freeze and the travel ban, on which the US insisted (Lederer 2006i; Aziakou 2006d; US Embassy Beijing 2006b). A considerably contentious issue was how sanctions targets for the assets freeze and (potential) travel ban would be selected. Whereas the EU3 and the US wanted to include these in a resolution annex, Russia advocated for delegating the task to a sanctions committee (SCR Update Report No.4 2006). To win Russia's and China's support, the drafters dropped the travel ban, which now only calls upon member states to "exercise vigilance" in the travel of 12 designated individuals and demands committee notification, but the assets freeze and the annex was retained (Aziakou 2006e; Japan Economic Newswire 2006b). To accommodate last-minute Russian concerns about the assets freeze, the drafters deleted one entity (Aerospace Industries Organization) from the annex "in order to get the resolution passed" (Lee 2006; Gootman 2006; Lederer 2006j; US Embassy London 2007a).

Finally, on 23 December 2006, the UNSC adopted its first round of sanctions (resolution 1737 (2006)) as a 9-page comprehensive package solution with one resolution annex detailing the sanctions targets. The resolution imposed an assets

freeze on 12 individuals and 10 entities, imposed commodity sanctions on nuclear proliferation and ballistic missile related items and created a committee to monitor implementation and adopt further decisions as required (Lynch 2006c; Gootman 2006; Wuthnow 2013: 78–79).

After the adoption of resolution 1737 (2006), there is no evidence that any actors pursued listing requests within the committee up until 2012.[26] While Russia and China remained skeptical to new sanctions (US Embassy Beijing 2007a; Wagner 2007), rather proactive members immediately sought to strengthen measures and applicable targets via a UNSC "package approach" (UK, in Lederer 2007a) when on 22 February 2007, the IAEA director-general reported Iranian non-compliance (GOV/2007/08). Few days after, the P5+1 discussed potential elements of a resolution adding onto existing measures (Wagner 2007). The sanctions supporters proposed extended sanctions measures: an embargo on arms export to and imports from Iran, banning "all transactions or the provision of any technical assistance, training or financial assistance to entities involved in Iran's nuclear and missile programs" as well as "grants, loans and credits to the (Iranian) government and state-owned institutions" and limiting export credits for commercial trade with Iran, a mandatory travel ban and expanded range of sanctions targets, including adding the Revolutionary Guard Corps (Aziakou 2007a; Olson 2007). To accommodate Russian and Chinese concerns, the sanctions supporters dropped the travel ban and export credit restrictions. Regarding the arms embargo, only the export of arms by Iran was censured, while the import ban was made voluntary and only applied to seven categories of heavy weapons including battle tanks, artillery and combat aircraft. The assets freeze on Revolutionary Guard Corps was also amended to name three specific entities and several key figures associated with the Revolutionary Guard Corps out of the 15 individuals and 13 entities in the resolution annex (Lederer 2007a, 2007b; Aziakou 2007b).

Finally, in a second round of sanctions on 24 March 2007, the UNSC adopted resolution 1747 (2007) as a package deal with two annexes. The resolution imposed a

[26] The author conducted systematic text-based searches in *Lexis Nexis*, *Security Council Report* and *WikiLeaks*.

ban on arms exports by Iran and added the 15 individuals and 13 entities subject to the assets freeze as legally-binding measures (Wuthnow 2013: 79; Mousavian 2012: 273).

Faced with an unchanged preference constellation, were Russia cautioned further sanctions steps (US Embassy Moscow 2007b), sanctions supporters kept initiatives on UNSC level. Again, the IAEA director-general 60 days report concluded that Iran failed to comply with UNSC resolutions (GOV/2007/22). The EU3 and the US considered a third sanctions round while interests remained essentially unaltered between "the US and the Europeans pushing for significant additional measures and Russia and China preferring small increments" (SCR Forecast May 2007; SCR Forecast June 2007; US Embassy Berlin 2007c). For some months, Iran achieved to unravel the shaky consensus by announcing to allow inspections. In September 2007, the P5+1 foreign ministers agreed to pursue a third sanctions round should the IAEA and EU foreign policy chief report negatively on Iranian compliance and EU-Iran negotiations (SCR Forecast December 2007a). After negotiations with Iran had failed, the P5+1 pursued a new sanctions round (Agence France Presse 2007c). While the P5+1 agreed about the need for a third resolution adding onto existing measures, members diverged about the appropriate scope of the "incremental increase", with China and Russia being reluctant, in particular on economic sanctions (SCR Forecast January 2008; US Embassy Paris 2008a, 2007b; Lederer 2007e).

In December 2007, the EU3 and US proposed first elements of a draft resolution to strengthen existing measures: an arms embargo on arms exports to Iran, an enlarged list of sanctionable items, a travel ban on all listed individuals, an expanded sanctions list including the *Revolutionary Guard Corps*, *Quds Force* and three Iranian banks (Wright 2007; Lederer 2007e). Whereas China rejected any sanctions threating its trade interests, as well as the type and number of targets involved, Russia was particularly opposed to sanctions on Iranian banks (Gearan 2007; Lederer 2007e). In a first round of negotiations, the P3 dropped the arms embargo and two Iranian banks (Wright 2007). Unable to reach agreement (Carmichael 2007), the discussions were moved to the level of foreign ministers that agreed on a package on 22 January. The package included concessions to skeptical members, mainly on financial and economic sanctions. The sanctions supporters had to delete two further entities

(*Iranian Revolutionary Guard Corps*, *Quds Force* and two of Iran's largest banks) (Wright/Lynch 2008; Agence France Presse 2008a). On 1 February 2008, the P5+1 circulated a draft resolution based on those elements to the entire Council, with the following measures: voluntary travel ban for Annex I individuals, legally-binding travel ban on individuals listed in previous resolutions and Annex II, additional individuals and entities subject to assets freeze in Annex III, extending the commodity sanctions to NSG Part 2 dual-use items (except for light-water reactors), calls to "exercise vigilance" in granting export credits to Iran, activities of Iranian banks, and providing the legal basis for cargo inspections (SCR Update Report No.2 2008). To accommodate skeptical non-permanent members, the drafters agreed to some final cosmetic changes (South Africa, Libya, Indonesia, Viet Nam, see US Embassy London 2008a; US Embassy Paris 2008b; Aziakou 2008).

Accordingly, on 3 March 2008, the UNSC adopted resolution 1803 (2008) in a third round of sanctions as a package deal, which included a complex system of resolution annexes. Annex I (13 individuals) and Annex III (12 entities) would be subject to an assets freeze, while only a voluntary travel ban including notification to the committee. Annex II designations (5 individuals already listed in 1737 (2006) and 1747 (2007)) would be subject to both assets freeze and travel ban. In addition, the UNSC extended commodity sanctions (see 9.2.2.1) and provided the legal basis for unilateral cargo interdictions and financial restrictions against Iranian banks (Wuthnow 2013: 80–81).

While for the remainder of 2008 and 2009 UNSC action was sidelined due to the reinvigorated diplomatic track, including a new P5+1 proposal and an US offer to engage in direct negotiations, the EU3 and the US again pushed for new sanctions in mid-2009 after the diplomatic track had not yielded any tangible results and the IAEA reported non-compliance (e.g. GOV/2009/74, GOV/2010/10). As the failure of talks could be blamed on Iranian defiance, now even Russia was "'fed up' with Iranian behavior" and accepted that a new sanctions resolution was required "to put pressure on Iran" although Russia maintained a cautious approach, in particular on sanctions that might infringe Russia's economic interests (US Embassy Moscow 2010; US Embassy Paris 2010; Nowak/Lederer 2010). China remained the most hesitant among the P5 (US Embassy Beijing 2010; US Embassy Paris 2010; Wuthnow 2013: 81–82;

Nowak/Lederer 2010). Again, while additional sanctions targets could have been added via the sanctions committee, the drafters decided to use the new package draft resolution to include new sanctions designations on the Council level.

Instead of the EU3, this time the US reached out on further steps supplementing resolutions 1737 (2006), 1747 (2007) and 1803 (2008), in late 2009 (Secretary of State 2009c, 2010) and circulated draft elements among the P5+1 in early 2010 (US Permanent Mission to the UN 2010). These elements included new sanctions designations, in particular on the *Iranian Revolutionary Guards Corps* and "any individuals and entities acting on their behalf or at their direction", but also significantly strengthened sanctions measures. The draft suggested complementing the export arms embargo on Iran with an import arms embargo including light weapons, an embargo against "Iranian state-owned air and shipping lines" subject to committee approval, an embargo on the "provision of insurance services to Iranian companies for international transport-related contracts", and an embargo on "the purchase and sale of bonds from the government of Iran". Finally, all previously listed individuals would be subject to both mandatory travel ban and assets freeze (Crawford et al. 2010; Lederer 2010a).

Since China opposed measures which could threaten its interest in the Iranian oil sector including on the insurance of oil transports and financial investments, the US circulated a revised draft transforming the aviation and shipping embargo into a cargo interdiction regime similar to the one imposed on the DPRK. The US also dropped the insurance embargo and subjected the issuance of bonds to Iran to a notification procedure only (Crawford et al. 2010; Business World 2010). In a further step, the US weakened financial sanctions and dropped any reference to investments into Iranian energy sector and only called upon states to "'exercise vigilance' in entering into new trade commitments with Iran, including granting export credits, guarantees or insurance" (Kuwait News Agency 2010; Lederer 2010b). Finally, in a US and Russian deal, to allow Russia the sale of S-300 anti-aircraft batteries to Iran, the US restricted the arms embargo to seven heavy weapons categories "as defined for the purpose of the United Nations Register of Conventional Arms", which excluded ground-to-air missiles, and agreed to domestically delist four Russian entities implicated in transferring sensitive technologies to Iran (Baker/Sanger 2010; Sanger/Landler 2010).

Last minute bargaining ensued over the scope of the resolution annex. While all previously listed individuals would be subject to both travel ban and assets freeze, the new list included only one individual, and on Russian and Chinese intervention, all banks except for the First East Export Bank were dropped from the list of entities (MacFarquhar et al. 2010; Lederer 2010c).

Finally, on 9 June 2010 the UNSC adopted its fourth round of sanctions (resolution 1929 (2010)) as an 18-page comprehensive package solution with four annexes. The measures included subjecting all previously listed individuals and entities to travel ban and assets freeze, as well as designating an additional 40 entities and one individual, among those 15 entities associated with the *Islamic Revolutionary Guard Corps* (Annex II) and three entities associate with *Islamic Republic of Iran Shipping Lines* (IRISL, Annex III). Further, the resolution added an arms embargo on Iranian major conventional arms procurement, "calls upon all States to inspect, (…) all cargo to and from Iran, in their territory", authorized (voluntary) cargo inspections on high seas when flag state consented, (voluntary) tightening of sanctions on Iranian financial sector as well as created a Panel of Experts (Wuthnow 2013: 82). Since resolution 1929 (2010), due to the ongoing diplomatic efforts to achieve a nuclear deal, all subsequent resolutions simply extended the mandate of the panel of experts (resolutions 1984 (2011), 2049 (2012), 2105 (2013), 2159 (2104)).

The predominant power-based decision-making on Iran sanctions through Council resolutions, which followed the logic of package deals and involved trade-offs and linkages, prompted inadequate regulatory decisions. It demonstrates that bargaining is not suitable for providing well-reasoned listing decisions, which were required for effective sanctions implementation, because the Council in contrast to its sanctions committees did not satisfy listing standards and acceptability controls were absent. First, listings in the first three resolution annexes had little to no identifiers and only provided names and functions. Examples include listings of the form "Behman Asgarpour, Operational Manager (Arak)" (resolution 1737 (2006) or "Karaj Nuclear Research Centre (Part of AEOI's research division)" (resolution 1747 (2007). Although the individuals mostly held top-level positions in Iranian nuclear and ballistic-missile programs, there is evidence that implementation suffered. US diplomatic cables reveal that when Taiwan requested the US to supply sufficient

identifiers for implementation, the US admitted that "[o]f the 40 designated individuals (…) the United States government has identifier information for 17" and that "(…) the United States has only been able to designate 16 individuals thus far because we do not want to designate the wrong person" (Secretary of State 2008e). German authorities were similarly concerned and complained that "UNSC 1737 Annex would be more helpful if it provided more information about the entities and persons, such as addresses and dates of birth" (US Embassy Berlin 2007a). Second, the large majority of listings did not contain any justification how designations met the listing criteria, which contributed to the success of a number of court proceedings annulling EU implementation (S/2013/331, para. 151; Eckert/Biersteker 2012: 30–33). Only as recently as December 2014 the list has been substantially updated, however, still many designations lacked basic identifiers.

In sum, the episode from 2006 to 2010 shows that although principally two options to adopt implementation decisions exist, UNSC members deliberately kept Iran sanctions on the Council level and imposed far-reaching sanctions measures and a considerable list of sanctions targets in four escalating sanctions resolutions. Council decisions characteristically resembled large package solutions including resolution annexes detailing sanctions targets to accommodate diverging interests of the permanent members and required negotiations over extended periods of time. The listing decisions resembled this pure bargaining logic. These packages were not problem-adequate and led to implementation issues. However, after 2010, the same Council members deliberately decided to pursue further sanctions designations within the sanctions committee thereafter (see section 9.2.2.2 below).

9.2.2 Functional differentiation provides different opportunity structures: Rule-based decision-making on dual-use items, individuals and entities

While the sanctions supporters initially opted for keeping initiatives on the Council level for targeted sanctions, they later made use of functionally differentiated decision procedures. First, instead of deciding about the specific proliferation-related items to be covered by a trade embargo, the Council resorted to Nuclear Suppliers Group

(NSG) and Missile Technology Control Regime (MTCR) produced export trigger lists of such items. Second, for further targeted sanctions on individuals and entities, the proactive members opted for getting the differentiated listing procedure operational through rulemaking, which led even powerful but skeptical members to agree to well-substantiated requests. Third, concerning the procedure for sanctions exemptions, even proactive states had to accede to previously accepted decision procedures despite having diverging situation-specific preferences.

9.2.2.1 Rule-based decisions through functional differentiation: Opting for NSG and MTCR lists of proliferation-related items

The case episode shows that the outcome of trade restrictions on proliferation-related items is increasingly rule-based, because the implicit division of labor between the Council as political organ on the one hand and the Nuclear Suppliers Group and the Missile Technology Control Regime as transgovernmental networks of technical regulators on the other hand provides disincentives for powerful members to introduce situation-specific interests. While the Council, instead of resorting to Council or committee decision-making, does not provide transgovernmental networks with a decision function to produce lists of proliferation-related items, it avails itself of transgovernmental networks as a source of externally provided focal points to determine the specific lists of proliferation-sensitive technologies subject to a trade embargo. First, because both transgovernmental networks focus on specific technical decisions on which items would constitute a proliferation risk or are dual-use in nature, situation-specific political interference is more difficult. In effect, if members are substantially interested in a meaningful regulatory outcome, the decisions need to be as comprehensive as possible. Second, in contrast to regulatory experts in transgovernmental networks, Council members can no longer meaningfully decide about the content of the lists. This transforms the Council's decision-making rationale from adopting implementation decisions on 'dual-use' items towards focusing on larger political questions whether such commodity sanctions should be imposed at all, when this should be the case or which larger parts of the lists should be applicable.

The effectiveness of any non-proliferation related export control regime rests on rule-based decision-making and poses a significant regulatory problem: Which

objects do, and which objects do not, fall under the category of "all items, materials, equipment, goods and technology which could contribute to Iran's enrichment-related, reprocessing or heavy water-related activities, or to the development of nuclear weapon delivery systems" (resolution 1737 (2007), para. 3)? The small number of nuclear weapons states shows that developing such systems is difficult, because it requires developing or acquiring a multitude of parts and technologies and fusing them into a complex operable system. Thus, preventing proliferation requires executing strict export controls on an abundant range of items. For instance, for ballistic missiles as delivery systems this ranges from complete rockets, unmanned aerial vehicles and cruise missiles to subparts of such and even raw materials: rocket casings and motors, propellants, guiding systems, re-entry vehicles, and software, among many others. In addition, exporters face three additional complicating issues: First, there are a large number of goods that are inherently dual-use. For example, a turbofan engine can be used in a nuclear cruise missile but also in a small civilian airliner. Second, exporters need to control so-called "below threshold items", which could be manufactured into dual-use items. Third, technological progress requires that export control is under almost constant revision to redefine potentially proliferation-related goods (see e.g. MTCR handbook). Each decision about a singular item is a judgment if the item concerned indeed contributes to proliferation. Whereas failing to list a good that could in fact contribute to a nuclear weapons program would undermine the effectiveness, adding an unjustified item could hamper legitimate trade relations and impact the regimes legitimacy. As a consequence, these decisions give rise to the issue of incorporating technological expertise into a regulatory decision-making in "high politics".

The NSG and the MTCR are both transgovernmental networks of domestic mid-level regulators (Eilstrup-Sangiovanni 2009; Slaughter/Hale 2011; Lipson 2006). Canada, France, Japan, Soviet Union, United Kingdom, United States and West Germany established the NSG in 1974 as a transgovernmental network of like-minded suppliers of nuclear technologies in response to India's first nuclear weapons test by coordinating national export licensing (Nuclear Suppliers Group 2015a: 1–3). In 1987, the G7 members created the MTCR as a transgovernmental network of like-minded members interested in preventing proliferation of suitable delivery systems (Missile Technology Control Regime 2015). The MTCR comprises of 34 members,

25 of which are Western (including Australia, New Zealand, South Korea), two Latin American (Argentina, Brazil), six Eastern European (Bulgaria, Czech Republic, Hungary, Poland, Russia, Ukraine) and one African member (South Africa).[27] All MTCR members are also NSG members, but NSG has a total of 48 members also comprising of Belarus, China, Croatia, Cyprus, Estonia, Kazakhstan, Latvia, Lithuania, Malta, Mexico, Romania, Serbia, Slovakia, and Slovenia (Nuclear Suppliers Group 2015b). Decisively, among the P5, China is member of the NSG, but not of the MTCR. However, China, not least to avoid sanctions from other suppliers, has pledged to adhere to MTCR guidelines and applied for membership in 2004 (Eilstrup-Sangiovanni 2009: 220–221; Huang 2012). Neither the MTCR, nor the NSG has a secretariat. Both are not based on a formal legally-binding treaty and operate on the basis of consensus. Single-case export decisions by domestic regulators are solely made in accordance with domestic law (Lipson 2006: 187, 193).

The NSG and MTCR transgovernmental networks are functional for their members and provide distinct advantages over institutionalized forms of governance. An uncoordinated system of export control is inadequate to address collective action problems associated with proliferation under conditions of globalized trade and technological progress (Lipson 2006: 184–186; Eilstrup-Sangiovanni 2009). First, the range of suppliers of nuclear technologies or delivery systems is confined to a small number of states that have more or less homogenous preferences, i.e. prevent transfers that may contribute to proliferation while trading these technologies among each other or with particular third parties. Similarly, because these clubs usually control large market shares, spoilers can be excluded in the beginning for setting standards and later might be compelled acceding to the adopted regulation or face exclusion from the clubs privileges such as access to new technologies (Eilstrup-Sangiovanni 2009: 209-210, 220-221, Anthony et al. 2007: 16–18). Second, because the great number of potential dual-use items and the highly technical nature of export controls exert states to uncertainties about future technological advances and their effects on proliferation, only a turn to regulatory experts instead of diplomats and a high degree of specialization seems feasible. Third, transgovernmental networks are

[27] The other MTCR members are Austria, Belgium, Denmark, Finland, Greece, Iceland, Ireland, Luxemburg, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and Turkey.

highly flexible and responsive to environmental changes and enjoy a large degree of informality. In contrast to treaties, agreements can be made with considerably lower transaction and sovereignty costs and the staffing with experts, not diplomats, considerably enhances efficiency (Slaughter/Hale 2011: 343, 347).

The major products of the two transgovernmental networks are three technical export trigger lists of proliferation and ballistic missile related goods to which NSG and MTCR export guidelines are applicable. The NSG adopts *Part 1* and *Part 2* as annexes to its NSG Guidelines (together about 120 pages). The former contains "items that are especially designed or prepared for nuclear use" including nuclear fuel, nuclear reactors and parts, non-nuclear reactor material, equipment for reprocessing, fabrication of nuclear fuel rods, isotopes separation and heavy-water production and was first issued in 1978. The latter "governs the export of nuclear related dual-use items and technologies, that is, items that can make a major contribution to an unsafeguarded nuclear fuel cycle or nuclear explosive activity, but which have non-nuclear uses as well, for example in industry" and was first issued in 1992 in reaction to Iraqi attempts at acquiring previously not regulated dual-use items (Nuclear Suppliers Group 2015b, 2015a: 4–6). The technical MTCR *Equipment, Software and Technology Annex* (about 75 pages) enumerates "a broad range of equipment and technology, both military and dual-use, that are relevant to missile development, production, and operation". It contains two sections, *Category I* items consist of complete rocket or other delivery systems or major sub-parts, whereas *Category II* items consist of dual-use missile related equipment or parts. They differ in the agreed consequences of export denial (Missile Technology Control Regime 2015).

Decision-making in the context of transgovernmental regulatory non-proliferation networks reduces opportunities for situation-specific political interference. To effectively strengthen export controls in face of growing proliferation threat, trigger lists have to be as comprehensive as possible. Domestic mid-level officials with relevant portfolios in foreign affairs, trade, defense, customs, as well as nuclear or ballistic missiles experts elaborate trigger lists within technical committees, which are later adopted by annual plenary meetings (Lipson 2006: 187–191, on technical committees see Nuclear Suppliers Group 2015a: 6, Missile Technology Control

Regime 2015). Because the lists of items are negotiated to be applicable to all goods that could contribute to proliferation of nuclear weapons and their delivery systems, actors that deliberate about such lists have to sort out extreme positions based on case-specific interests in a particular conflict (e.g. Iran). Actors negotiate under a significant veil of uncertainty because actors cannot know future case-specific interests in cases that have not emerged yet (e.g. Iran prior to 2002, earlier Libya, Syria, Iraq). The extremely technical nature of the endeavor increases the incentives for consistent rulemaking through arguing to the disadvantage of power-based bargaining. Previous research has shown that bargaining processes are not suited as interaction mode, if the specific task is to process validity claims for solving regulatory problems (e.g. Gehring/Ruffing 2008: 126; Risse 2000). Even more so, bargaining provides no suitable approach in cases with high uncertainty such as where there is no clear distinction between acceptable and unacceptable activities, such as in WMD export control (Eilstrup-Sangiovanni 2009: 218–222). In addition, technical experts as negotiators in export control policy operate with a higher degree of autonomy from their governments and related concerns of high politics (Lipson 2006: 184). For all those reasons, it can be expected that political intervention in technical regulation of export control regimes is very difficult (see also Gehring 2004: 682).

The preexisting NSG and MTCR items lists had a significant effect on Security Council decisions-making. To solve the regulatory problem, the UNSC simply accepted readily-available NSG and MTCR lists of goods and subjected listed items to a mandatory trade embargo. In fact, it only left a subsidiary decision function to its sanctions committee (starting with resolution 1737 (2006)). While the intention was mainly to reduce the Council's workload and to relieve it from overly technical discussions, it had a significant effect on the governance of dual-use commodity sanctions. Because the Council naturally focused on the broader political questions instead of technical details, this made decisions increasingly rule-based. Consequently, the Security Council had to determine, which parts of the lists were authoritative and whether or not specific actors or circumstances deserved exemptions. This also occurred every time when the Council had to replace the items lists, which the NSG and MTCR did regularly updated due to technical innovation (interview with UN member state official, New York, December 2013). Although

political interference is much more likely in the UNSC, due to the highly technical nature, the members are exposed to constraints associated with functional differentiation.

The constraints for Council decision-making are empirically observable in the fact that the UNSC members did not haggle over technical details, but only disputed the timing of the imposition of broad trigger lists sections (e.g. Russia's insistence on light-water reactors and its fuel supply). Yet, UNSC political dynamics of sanctions rounds led to a strategy of escalating the number of broad categories of items as determined by NSG and MTCR lists. Accordingly, in resolution 1737 (2006), the UNSC determined items on the NSG Part 1 list as embargoed items except for complete light-water reactors and components including low-enriched nuclear fuel (resolution 1737 (2006), para. 3ab), while NSG Part 2 dual-use expert controls was left to a state's discretion (para. 4). Concerning ballistic missile items, the UNSC adopted an embargo on items listed in the MTCR annex (S/2006/815), with a tiny exception for complete unmanned aerial vehicle systems with more than 300km range (para. 3c, MTCR subcategory II, 19.A.3). Finally, the UNSC exempted "such items or assistance [that] would clearly not contribute" to Iran's nuclear weapons program and delivery systems, for instance "for food, agricultural, medical or other humanitarian purposes" upon consensus committee decision (para. 9). In resolution 1803 (2008), the UNSC made NSG Part 2 list authoritative (S/2006/814), while maintaining the exception for dual-use items for "exclusive use in light-water reactors" (para. 8a). Concerning the MTCR list, the UNSC added the previously exempted unmanned aerial vehicles so that the complete MTCR list (S/2006/815) would be applicable (para. 8b). Two years later, in resolution 1929 (2010, para. 13), the UNSC simply replaced the lists with the new versions of NSG and MTCR lists (INFCIRC/254/Rev.9/Part 1, INFCIRC/254/Rev.7/Part 2 and S/2010/263). In March 2013, the Iran sanctions committee again updated the items lists with newer versions (SC/10928; Chair, S/PV.6930). Rev.9/Part 1 and Rev.7/Part 2 were superseded by Rev.11/Part 1 and Rev.8/Part 2 (adopted in November 2012 and June 2010 respectively) and the MTCR list S/2010/263 was replaced by S/2012/947 (adopted in December 2012).

This raises the question, why the task to determine embargoed goods is not left to the committee. First, the NSG and MTCR lists are readily available. Since the creation of the transgovernmental networks in 1974 and 1987 respectively, such trigger lists have been developed and adapted to changing circumstances. Simultaneously, since they are adopted by consensus of the major producers of nuclear and ballistic missile technologies, and thus are known to their export control agencies, they are easily implementable by almost all potential exporters. Second, determining such goods within the confines of UNSC sanctions committees would create significant transaction costs. Since sanctions committees are staffed not with experts in the field but with lower-rank diplomats, and there is no strong secretariat or other expert body available, the "complexities of defining what 'proliferation sensitive' items are, this could lead to very significant challenges for the Committee" (SCR Update Report No.4 2006). According to diplomats involved, the regulatory issue is of such a technical nature impossible to negotiate for diplomats within the UNSC framework. Even within the two networks, determining these items for a single member state requires prolonged interagency processes (interview with UN member state officials, New York, December 2013). Third, the lists are not adopted against the background of a particular conflict, in this case Iran. For instance, since it was first issued up until the Iranian nuclear conflict, the NSG Part 1 list had been amended four times and the NSG Part 2 list three times. When the Iran nuclear conflict came up, the sanctions supporters could appeal to that list because that list was not generated to sanction Iran. Thus, it is to some degree externally validated independent of any conflict scenario (interview with UN sanctions expert, Washington DC, December 2013). Fourth, these lists had been adopted previously within the context of the DPRK sanctions regime as a precedent (resolution 1718 (2006, para. 8), which would increase pressure to argue why one item would be sanctionable in one case but not in another although they are seemingly comparable.

In conclusion, decision-making on proliferation-related items reflects the logic of rule-based decision-making using NSG and MTCR produced export trigger lists as external focal points to coordinate behavior. The technical nature of determining proliferation-related goods restricts the Council to deciding about whether or not those items should be sanctioned at all and when this should be the case. Because the Council cannot meaningfully decide about such detailed technical issues, using NSG

and MTCR trigger lists provides a viable alternative. Since UNSC members cannot re-negotiate the lists at acceptable costs, bargaining is extremely unattractive. Essentially, this leaves skeptical UNSC members with a take-it or leave-it option. In addition, the P5 members have accepted these lists in a different forum, which is based entirely voluntary participation. Simultaneously, large parts of the lists had been developed before the Iran conflict emerged. As a result, referring to NSG/MTCR lists does provide a rule-based solution to non-proliferation commodity sanctions.

9.2.2.2 Substantive decision criteria and independent evidence determine committee listing decisions

The 2012-2013 episode of the five committee designations allows for comparing Council and committee decision-making and shows that in contrast to the Council, the committee operates in the mode of rule-based decision-making. A systematic analysis of all listing initiatives on sanctions violations demonstrates that the mode of committee interaction did not rely on bargaining power but on supplying convincing arguments as to why a particular request was warranted against the substantive decision criteria established by the Council. Anticipating a committee blockade, sanctions proponents ex ante engaged in rulemaking to adopt general UNSC directives for the committee to designate sanctions violators, and the committee subsequently developed an (albeit high) evidence-threshold by precedent. Even reluctant powerful members accepted well-founded requests, while they rejected less-documented requests. At the same time, there is no evidence for the main alternative explanation that decisions merely resemble package deals. Since late 2013 and after the election of the Rouhani government, sanctions proponents refrained from initiating further substantive committee decisions so as not to threaten a potential

negotiated P5+1-Iran nuclear deal (SCR Forecast June 2014; SCR Forecast December 2014).[28]

There are no known committee listing proposals up until the adoption of resolution 1929 (2010) despite repeated violations of the arms exports embargo.[29] The first clear violation of the arms exports embargo was discovered when Cyprus seized a consignment of ammunition aboard the Islamic Republic of Iran Shipping Lines (IRISL) chartered cargo 'motor vessel' (M/V) Monchegorsk in February 2009 (S/2009/688, para. 20). However, even the US did not consider designations. Instead, as a first step the US sought to clearly establish the case as an Iranian sanctions violation by a low key committee decision. Accordingly, the US proposed simply sending letters to Iran and Syria requesting explanations and that the committee issued a Note Verbale to all UN member states later adopted as Implementation Assistance Notice, which determined that IRISL arms shipments had violated resolution 1747 (2007) (US Permanent Mission to the UN 2009a). The IRISL-chartered container ship M/V Hansa India case, which "involved virtually identical circumstances", led the committee to issue another Implementation Assistance Notice in January 2010.[30] Before the Council imposed a fourth round of sanctions, including targeted sanctions on IRISL, the committee took no further action on sanctions violations.

With the adoption of resolution 1929 (2010), the sanctions supporters deliberately changed their strategy and used the functional differentiated decision-making system on targeted sanctions to pursue new listings in reaction to Iranian sanctions violations. First, because the sanctions measures had been considerably extended by subsequent Council resolutions, the proactive states did no longer intend to impose tougher

---

[28] For instance, explicitly, the Panel of Experts "[g]iven the ongoing negotiations, the Panel refrains from additional recommendations" (S/2015/401, summary). In its 2014 report, the panel did not make any recommendations concerning substantive decisions (S/2014/394, recommendations).

[29] Prior to resolution 1929 (2010), the committee has received four reports of sanctions violations: One case in 2007 and three cases in 2009 (Panel of Experts Iran 2011, para. 34, pp. 33). The author conducted systematic text-based searches in WikiLeaks and LexisNexis databases as well as Security Council Report publications to assess whether or not listing requests have been pursued.

[30] Also S/2009/688, paras 19-25. For *M/V Monchegorsk* and *M/V Hansa India* case see http://www.un.org/sc/committees/1737/selecdocs.shtml [last accessed: 04.05.2015].

sanctions measures in a new sanctions resolution (SCR Forecast March 2011; SCR Forecast June 2012; SCR Forecast March 2013, among others). In anticipation of a potential committee blockade, the sanctions proponents did not simply seek a one-time UNSC package deal in resolution 1929 (2010), but rather sought to adopt a general, less-ambiguous rule on committee designations to react on future reported sanctions violations. In fact, during negotiations on resolution 1929 (2010), the US deliberately included language on sanctions violators in the designation criteria to lower the threshold for a committee listing (interview with UN member state official, New York, December 2013). Consequently, since sanctions proponents concentrated on small-scale implementation decisions, it was reasonable to seek additional designations first within the committee and only if that failed, submit listing requests to the Council.

The adopted rule was more precise, explicitly provided the mandate for the committee to impose targeted sanctions on sanctions violators and did not favor any of the powerful members. The UNSC straightly "[d]irects the Committee to respond effectively to violations of the measures decided in resolutions 1737 (2006), 1747 (2007), 1803 (2008) and this resolution, and recalls that the Committee may designate individuals and entities who have assisted designated persons or entities in evading sanctions of, or in violating the provisions of, these resolutions" (resolution 1929 (2010), para. 26). This clarified the earlier more ambiguous reference to sanctions violations, which was aimed at "(…) persons and entities determined by the Council or the Committee to have assisted designated persons or entities in evading sanctions of, or in violating the provisions" of previous resolutions (resolution 1803 (2008), para. 7). The committee amended its guidelines and acknowledged that it "will decide on the designation of individuals and entities" (as opposed to previous version: "the committee shall receive (…) proposals for additions to [the list]", see guidelines April 2008, para. 13), laid out detailed informational requirements concerning identifiers and reaffirmed that each proposal should be accompanied with a "narrative description" on how the individual or entity fits the decision criteria (guidelines August 2011, paras 20-25), namely being "engaged in, directly associated with or providing support for Iran's proliferation sensitive nuclear activities or for the development of nuclear weapon delivery systems or (…) acting on behalf of such individuals and entities (…), assist designated persons or entities in evading sanctions

or in violating (…) Security Council resolutions 1737 (2006), 1747 (2007) or 1803 (2008)" (committee guidelines April 2008, paras 13-14). In addition, the consensus no-objection procedure was extended from five working days to 10 working days (paras 15, 21).

Second, sanctions proponents strongly advocated for establishing a panel of experts, which would independently investigate violations. The availability of a panel of experts, proved useful for sanctions supporters because it provided independently investigated information on violations and potential designations (interview with UN member state official, New York, December 2013). The Panel of Experts regularly submitted reports to the committee and comprised of eight experts, while the P5+1 Germany consistently had one national on the panel (see S/2010/576, S/2011/4, S/2011/405, S/2012/521, S/2013/375, S/2013/615, S/2014/464, S/2015/78). The UNSC instructed the panel to "gather, examine and analyse information (…) regarding the implementation of the measures (…), in particular incidents of non-compliance (…)", make recommendations and provide a final report before the termination of its mandate, subject to re-authorization after one year (resolution 1929 (2010), para. 29). The panel did not have any formal decision function and while it worked under the direction of the sanctions committee, the panel could freely decide about the content of its reports collectively. For eventual decision requests, committee members could, but did not have to, pick up recommendations and evidence and turn them into formal decision requests.

The committee faced a strongly diverging interest constellation where the P3 favored additional designations in response to violations, whereas Russia and China were hesitant. In a Council debate on Iran sanctions in June 2011, the US, France and UK advocated for early adoption of new designations on sanctions violations, whereas Russia opposed the contents and conclusions of violation reports calling the information "[u]nverified and politicized" (Russia, S/PV.6563). Russia and China made clear that they opposed new sanctions and preferred negotiations (SCR Forecast December 2011; SCR Forecast June 2012; SCR Forecast September 2012). Russia was particularly determined to ensure that the committee "acted in a balanced and objective manner and has not overstepped its mandate" and cautioned that the "Panel [of Experts] must work impartially and independently and be guided (…) only by

reliable and objective information" (Russia, S/PV.6888, p. 4). China, added that it was "a firm supporter of diplomatic solutions, and is not in favour of putting excessive pressure or imposing new sanctions on Iran" (S/PV.6888 of 13 December 2012, p.12).

In contrast to the Council level, where listing decisions were adopted in packages, Iran sanctions committee listing decisions were rule-based and followed substantive and procedural criteria. Overall, in nine alleged sanctions violation cases the newly established Panel of Experts confronted the committee with reports detailing the cases circumstances and investigating responsible individuals or entities for possible designations (see Table 15). Only on the five designation recommendations with strongest evidence stemming from three sanctions violations incidents, committee members made listing requests, and all of the five requests were granted despite the objections of powerful committee members. On the remaining incidents, the Panel drew no definite conclusions if violations had taken place. In the KAL Cargo (Republic of Korea) case, the panel concluded that the discovered item (rolls of phosphor bronze wire mesh) "does not fall under the list of items" subject to sanctions (Panel of Experts Iran 2011: para. 70). In the STX Patraikos (Singapore) case, the panel noted that there "are commercial applications for fine aluminium powder" but that "most likely end-use is solid propellant for missiles" (Panel of Experts Iran 2011: para. 75). Concerning the Safir/Rasad launch, the panel claimed that the "Safir space launch vehicle itself was not designed to carry a nuclear weapon" and three panel members concluded that the case did not constitute a violation (S/2012/395, para. 36).

Table 15: Panel of Expert Investigations and Committee Response 2012-2013

Panel Report	Case	Panel Recommendation	Committee Decision
May 2011	M/V Hansa India	- incident reported before resolution 1929 (2010)	
	Francop (Israel)	- incident reported before resolution 1929 (2010)	
	Everest (Nigeria)	- committee "should designate" two individuals (Tabatabei; Aghajani) and one entity (Behineh Trading) - committee "should consider, in view of information be received from Member States, the designation" of one entity (International General Trading and Construction)	- committee listing - no listing request
	M/S Finland (Italy)	- incident constituted a violation, but no recommendations	
	KAL Cargo (Republic of Korea)	- incident did not constitute a violation, because item did not fall under embargo (dual-use)	
	STX Patraikos (Singapore)	- investigation ongoing	
June 2012	Safir/Rasad launch	- disputed whether or not case constituted a violation, no recommendation	
	Yas Air (Turkey)	- committee should designate one entity (Yas Air)	- committee listing
	Kilis (Turkey)	- committee should designate one entity (SAD Import Export Company) - panel "draws the attention of the Security Council and the Committee" to one entity (Chemical Industries and Development of Materials Group)	- committee listing - no listing request

Note: Author's illustration. Source: Panel of Experts Iran (2011); S/2012/395; SC/10615; SC/10871.

The level of evidence in the first panel of experts report in May 2011 explains the listing outcomes, while package deals are unlikely. Above all, the panel asserted that "(…) Iran's circumvention of sanctions across all areas, (…) is wilful and continuing" (Panel of Experts Iran 2011, para. 5). Pro-active Western powers lauded the panel for its revelations, but Russia blocked its publication and China also fiercely rejected its

content (Agence France Presse 2011a, 2011d; Right Vision News 2011). The report was leaked (Panel of Experts Iran 2011). The Panel investigated six reported incidents of relevant arms and proliferation-related embargo violations, only two of which were further pursued since two cases were prior to the Panel's establishment, one investigation was ongoing and on one case, the Panel concluded that it did not constitute a violation (Panel of Experts Iran 2011, para. 34).

Both cases further investigated concerned violations of arms exports embargo from Iran, but differed in their evidential weight. In the less-substantiated 'Finland case', Italian authorities had discovered a concealed shipment of 200 sacks of T4 explosives onboard the cargo 'motor ship' (M/S) Finland at the Port of Gioia Tauro, Italy. However, the sole source of evidence concerning was the bill of lading, which stated the shipping from an Iranian company to a Syrian company. Although the panel perceived the *Finland incident* as violation, it did not make recommendations for designating responsible individuals or entities. In the much stronger 'Everest case', Nigerian authorities seized a shipment of 240 tons of ammunition hidden in 13 shipping containers onboard the cargo ship M/V Everest in the port of Lagos, Nigeria. In the wake of the seizure, two Iranian citizens, who had accompanied the shipment, fled to the Iranian embassy and prompted the Iranian foreign minister to diplomatically intervene to negotiate their repatriation. Subsequently, the foreign minister "acknowledged that the arms originated in Iran". Accordingly, the panel concluded that "as confirmed by the Iranian Foreign Minister and confirmed by documentary evidence" the shipment was a violation of the arms embargo. Strikingly, concerning possible designations, in the stronger Everest case, the panel made differentiated recommendations. On the one hand, it recommended that "[t]he Security Council should designate" the two individuals directly involved (Ali Tabatabaei and Azim Aghajani) as well as the entity Behineh Trading of Tehran, which had "played the role of freight forwarder in Iran (…), made contact with the agent of shipping line, (…) provided stuffed containers with non-standard container identification codes [and](…) also provided a false declaration of their contents". On the other hand, the panel having less evidence only recommended that "[t]he Security Council should consider (…) the designation of" one entity (International General Trading and Construction), because it had provided unspecified "support" to one of the individuals involved in the Everest case (Panel of Experts Iran 2011: 3, 60–61).

Even powerful members, in this case Russia, were forced into rule compliance although they objected to further sanctions, if the cases are bolstered with strong evidence and clearly fit to Council listing criteria. The UK transformed the panel recommendations listing two individuals and one entity with strong evidence into listing proposals in April 2012 (SCR Forecast June 2012). Because the committee was unambiguously directed to act upon violations and the evidence in the Everest case was independent and strong and even confirmed by the Iranian foreign minister, Russia gave in and the committee added Ali Tabatabaei, Azim Aghajani and Behineh Trading on 18 April 2012 (SC/10615; Agence France Presse 2012a). In this context, on the basis of emphasized Council language on sanctions violations, the committee could designate sanctions violators in well-documented cases. Since there were no immediate substantive committee decisions taken on other matters, a package deal to compensate skeptical members seems unlikely.

These two cases functioned as a precedent and enabled proactive members to place subsequent committee designations based on similarly strong evidence, despite Russian and Chinese hesitance. In its June 2012 report, the Panel investigated reported embargo violations and again made differentiated listing recommendations (S/2012/395). In the 'Yas Air case', Turkish authorities interdicted an Iranian Yas Air operated Ilyushin-76 aircraft on its way from Iran to Syria and seized 19 boxes with assault rifles, machine guns, mortar shells and ammunition. Turkey had reported the interdiction with detailed cargo inventory and the panel had inspected and confirmed the sanctions violation on site (paras 33-34, 102-103, 156). In the 'Kilis (Turkey) case', Turkish authorities seized a truck from Iran bound for Syria at the Turkish-Syrian border loaded with gunpowder, propelling charges, detonators, solid rockets, and 1,700 kg of explosives. The panel established that documents accompanying the shipment "including an invoice issued by the consignor of the shipment, SAD Import Export Company (…) further established the nature, origin and destination" (paras 37-38, 104-106). The case involved another entity (Chemical Industries and Development of Materials Group), the alleged producer of propelling charges, while not being the direct violator (para. 229). The panel "(…) in accordance with existing practice" recommended to designate "Yas Air, for the transport of prohibited arms (…) and SAD Import Export Company, for its role as a trading agent of prohibited arms". Further, the panel asserted that "[b]oth recommended designations are

supported by strong documentary and factual evidence" (para. 248). However, the panel merely "[drew] attention" to the Chemical Industries and Development of Materials Group" (para. 249). Crucially, the panel differentiated between Yas Air and SAD Import Export Company on the one hand, both supported with strong evidence and the Chemical Industries and Development of Materials Group on the other hand, with less substantiated evidence. The sanctions proponents only submitted two listing requests for Yas Air and SAD Import Export Company, which Russia let pass and consequently were listed by the committee in December 2012 (SC/10871; Associated Press 2012). The fact that the US also unilaterally listed the Chemical Industries and Development of Materials Group shortly thereafter (Gladstone 2012) shows that the US could not assemble a case withholding arguments of inadmissibility against the committee standard. As the committee took no other immediate substantive committee decisions, a compensating package deal was unlikely.

A recent alleged case of a sanctions violation shows that the evidentiary threshold is extremely high and that sanctions opponents would block requests if they could base their position on substantive criteria given by the Council. When Iran launched "Shahab 1 and 3, Zelzal, Fateh-110 and Tondar" ballistic missiles during its 'Great Prophet 7' military exercise in July 2012, the Panel asserted that these tests "constituted a violation (…) of paragraph 9 of resolution 1929 (2010)", however, the Panel did not recommend any listing (S/2013/331, paras 82-86, S/2012/395, Annex VIII). Whereas the P3 clearly acknowledged the violation and demanded new designations or at least that the committee would officially determine the violation (see UK, US, France, S/PV.6999, S/PV.7028), Russia and China objected (SCR Forecast July 2013b). Russia, with reference to the qualification in resolution 1929 (2010) that "Iran shall not undertake any activity related to ballistic missiles *capable of delivering nuclear weapons*" (para. 9, emphasis added), argued that the tested missiles were actually not designed to be used for nuclear warheads, thus would not be subject to sanctions so no sanctions violation had taken place (interview with UN member state official, New York, December 2013). Indeed, the launched missiles have been developed in the 80s and 90s before Iran's nuclear ambitions became public. Following this line of argument, Russia blocked any kind of decision ranging from a common committee statement during the Chair's regular Council briefing

(Chair, S/PV.6999, p.2), let alone any listings or implementation assistance notices (SCR Forecast September 2013; SCR Forecast December 2013, 2014).

Since 2012, the Panel of Experts only in one instance recommended to pursue additional designations (S/2013/331, paras 18-22, 130, for 2014 see S/2014/394, for 2015 see S/2015/401), in this case one entity (Pentane Chemistry Industries), which allegedly was used as front company in a partly successful attempt to procure valves for the Arak heavy-water reactor on behalf the Modern Industries Technique Company (MITEC). However, MITEC was already listed in in the annex of resolution 1929 (2010), Pentane Chemistry Industry had been subject to US domestic sanctions already in 2012, and four responsible individuals were sentenced in a German court proceeding in 2013.[31] There is no evidence that any member proposed a designation in this case. In addition, Pentane Chemistry Industry had been previously acquitted of an alleged embargo violation through the expert panel in a different case (Panel of Experts Iran 2011: 14–15; Lynch 2013; Charbonneau/Nichols 2013).

In the last listing initiative in late 2013, the US sought to use the Iran sanctions committee to list a Syrian pro-government militia (Jaysh Al-Shabi), which was implicated as the benefactor of an alleged weapons transfer and military assistance from Iran and was previously listed under US sanctions (SCR Forecast December 2013)(SCR Forecast December 2013, DeYoung/Warrick 2013). However, since the Panel of Experts noted that "[g]iven the deteriorating security situation in the Syria Arab Republic, there is no possibility of gathering evidence that would confirm or deny these allegations" (S/2015/401, para. 32), Russia placed a hold on the request (SCR Forecast December 2013; SCR Forecast March 2015). Since, the late 2013 reinvigorated efforts of the P5+1 on negotiating a comprehensive agreement on the Iranian nuclear program, the committee had essentially been in the "waiting mode" and no further committee listing initiatives have been made (see e.g. SCR Forecast December 2014).

[31] Hanseatisches Oberlandesgericht Hamburg 3. Strafsenat, Urteil vom 08.11.2013, 3 - 1/13, 3-1/13.

In sum, the 2012-2013 committee case episode shows that in contrast to the Council's package resolutions, the Iran sanctions committee operates in the logic of rule-based decision-making. The variance in Panel of Experts listing recommendations demonstrates that the degree of case evidence is a decisive variable in explaining outcomes. Successful listings had to suffice a high evidentiary threshold, whereas below-threshold proposals had little chance to succeed. In the Everest, Yas Air and Kilis incidents, the sanctions proponents were successful because they combined unambiguous evidence with a clear committee mandate to list sanctions violators. Whereas skeptical members did not block strong cases that fulfil the evidentiary threshold, they could avoid decisions on less clear-cut cases. This episode reflects the tendency of committee members to only accept water-tight listing proposals because reluctant committee members will dismiss those requests which expose the slightest degree of uncertainty. In this regard, deliberately making sanctions violations an explicit committee mandate made it difficult to reject substantiated decision requests (two separate interviews with UN member state officials, New York, December 2013).

9.2.2.3 Procedural decision rules restrict powerful members discretion in objecting to well-founded exemption requests

The case episode on sanctions exemptions to targeted sanctions highlights that once the Council has adopted committee procedures these bind even reluctant powerful actors and ensure rule compliance. The committee processed incoming exemption requests according to distinct procedures for certain types of exemptions. Because resolution provisions on exemptions either excluded the committee from deciding about exemptions under a notification procedure or provided for negative consensus procedures on many types of exemption requests, committee members could no longer block such requests even if they had diverging situation-specific interest. Thus, rule-based decision-making on sanctions exemptions was not the result of convincing skeptical members. Rather it rested upon restricting the discretion of committee members to block requests in line with committee procedures, even if those requests violated powerful members' interests. In effect, exemptions were shielded from

political interference by powerful members and decisions were rule-based regardless who submitted such requests.

The drafters of sanctions resolutions included a set of standard exemption procedures to targeted sanctions that restrict the discretion of committee members without knowing potential future cases. Resolution 1737 (2006) provided the committee with three different exemption procedures allocating different decision powers, i.e. notification, negative consensus and consensus depending on the type of exemption request.

First, the Council adopted a simple *notification procedure* without committee decision for funds to satisfy payments "subject of a judicial, administrative or arbitral lien or judgement" as well as funds for "activities directly related to the items" for light water reactors and components (para. 13c, d). Also, upon notification, states could exempt payments by listed individuals or entities "due under a contract entered into prior to the listing" of the individual or entity provided that the contract was not related to prohibited activities and the payment was not made for the benefit of another listed individual or entity (para. 15). Apart from targeted sanctions, Council resolutions exempted nuclear equipment and fuel for use in light-water reactors subject to simple notification (para. 5). Second, the Council instituted a *negative consensus* procedure on funds for "basic expenses, including payment for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges or exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services, or fees or service charges, (…) for routine holding or maintenance of frozen funds, other financial assets and economic resources". Those had to be notified and were automatically granted within five working days "in the absence of a negative decision by the Committee" (para. 13a). Third, the Council provided for a procedure to approve funds for unspecified "extraordinary expenses" after a *positive consensus* decision in the sanctions committee (para. 13b).

These procedural prescriptions restrict blocking powers of sanctions committee members and benefit requesting states, at least for the first two exemption procedures. Notification and negative consensus procedures transfer the burden of proof on those states wishing to block those requests through convincing fellow committee members

of the inadmissibility of a request as "basic exemptions" or being a payment subject to notification only. In this case, substantive criteria only play a secondary role as they define which types of requests are decided under which procedures.

These provisions sparked a number of exemption requests and notifications. In 2007, the committee received and granted six requests for granting exemptions for basic expenses and four requests for granting extraordinary expenses as well as 30 notifications on assets released in connection to earlier contracts (S/2007/780, paras 13-14). In 2008, the committee received and granted two requests for granting extraordinary expenses. In addition, the committee received four and five notifications for payments in connection of prior contracts in 2008 and 2009 respectively (S/2008/839, paras 23,25; S/2009/688, para. 16).

A particular controversy emerged over the assets freeze imposed on the Iranian Bank Sepah, because the US wanted to completely shut down the bank, while its European allies sought exemptions for the Bank's assets (US Permanent Mission to the UN 2007j; US Embassy Berlin 2007b). The UNSC had designated Bank Sepah in March 2007 in the annex of resolution 1747 (2007), for providing financial support to entities sanctioned under resolution 1737 (2006) as being implicated in Iran's missile program. Bank Sepah had been one of the few banks that serviced financial transactions for EU companies trading with Iranian counterparts, thus held financial claims by EU entities and had subsidiaries and local staff in many countries, including the UK, Germany and Italy. As a result, all three countries issued exemption requests for releasing certain frozen funds for the Bank's expenses, for instance, to pay local employees that otherwise would have lost employment.

The requestors deliberately aligned their exemption requests to earlier successful requests. Germany notified the committee about its intention to release funds "to pay for 'basic expense' business costs, tax and legal fees" and matched its notification to an earlier UK exemption that went through the committee "without issue". The US had serious reservations about the request. In US-German bilaterals, a German diplomat "expressed surprise to hear of our concerns because Berlin copied almost identically previous UK exemption notifications" (US Permanent Mission to the UN 2007j). In a slightly different case, Italia aligned an exemption request to these earlier requests. The Italian request contained two separate exemptions, first, an exemption

to cover local employees' salaries, utilities, legal costs, and taxes, and second, a transfer of funds from the "parent bank" in Tehran to pay the bank's "creditors, depositors, and customers" (US Permanent Mission to the UN 2007j; US Embassy Rome 2007c). Again, the US had serious reservations. In US-Italian bilaterals, Italy argued that the "U.S. was unfairly singling out Italy. Italy believes it shares a common position with Germany and the UK on Bank Sepahs' assets -- a common 'EU approach' [and] (…) that its UN proposal was in line with language in UNSCR 1737 [and thus] asking for the same treatment that the UK and Germany are receiving at the UN" (US Embassy Rome 2007d).

The committee granted the two basic expenses requests in the absence of a negative consensus and forced even powerful permanent members to accept decisions that are in line with exemption provisions, while it rejected the request for extraordinary expenses. The committee processed the incoming notifications according to its rules. First, both the German request and the first Italian request clearly fell into the category of the "basic expenses" exemptions provision of resolution 1737 (2006) and thus was only subject to negative consensus, which the US acknowledged (US Permanent Mission to the UN 2007j). The US would have needed to convince all other committee members of the inappropriateness of these requests, which was impossible to achieve. Accordingly, the committee positively acknowledged these "basic expenses" notifications (US Embassy Rome 2007d). The US ambassador admits that procedural limitations preclude the US from stopping such eligible requests because "the Committee has limited ability to stop a notification for 'basic expenses' under paragraph 13(a) of resolution 1737 (2006) because blocking would require consensus of all committee members (15 no's)" (US Permanent Mission to the UN 2007j). The UK made a similar point during committee discussions on exemptions a few months later (US Permanent Mission to the UN 2007l). Second, the requested Italian transfer from the parent bank clearly fell into the category of "extraordinary expanses" and hence was subject to a positive consensus decision. In this case, the US objected to the request arguing that not Italy, but Iran had to submit an exemption request since it were Iranian assets that had to be unfrozen for the transfer (US Permanent Mission to the UN 2007j; US Embassy Rome 2007d).

The US was also displeased by many exemptions requests received in in relation to contracts entered prior to sanctions (for instance Secretary of State 2007b, 2008a, 2008c). According to resolution 1737 (2006, para. 15), payments by designated individuals and entities resulting from contracts entered into prior to the listing of the respective individual or entity could be made unless the payment concerned sanctioned items or the beneficiary would be under UN sanctions, provided that such transfers are notified to the committee. This was particularly relevant for sanctioned banks that would serve as processing entities for financial transactions in relation to trade contracts concluded over substantial periods of time. In particular in the early phase of the sanctions regime, the committee received numerous such requests. According to committee annual reports, the committee received 30 notifications in 2007 (S/2007/780, para. 14), four in 2008 (S/2008/839, para. 25), five in 2009 (S/2009/688, para. 16), five in 2010 (S/2010/682, para. 15), and six in 2011 (S/2012/193, para. 12).

Within the committee the notifications were dealt with in accordance with exemptions provisions as provided by Council resolutions, which bereft committee members from blocking exemption requests and resulted in automatic acknowledgements of notification by the chair (Secretary of State 2007b). Because the exemption provision precluded the US from rejecting these transfers as they were only subject to notification, the US made bilateral attempts to inquire details to uncover if illegal activities were funded. For instances, cases include Sweden (US Embassy Stockholm 2007), China (Secretary of State 2008c), and the UAE (Secretary of State 2008a). Although some requestors felt compelled to supply more information (US Embassy Stockholm 2007), promised to supply more information (US Permanent Mission to the UN 2008c) or simply reject the inquiries (US Embassy Abu Dhabi 2008), because their requests were in accordance with the exemption provision, all refused to withdraw their requests, which the US simply had to accept.

The exemptions for the light-water reactor and nuclear fuel for such (resolution 1737 (2007), paras 3b,5) were uncontroversial. Although this seemingly one-sided exemption that was clearly designed towards allowing Russia to uphold its economic interests in completing the Bushehr nuclear reactor and supplying the necessary fuel, the regulation was also in the interest of sanctions enforcers. Accordingly, the US

argued that there is no reason for Iran to pursue a policy towards handling the full nuclear fuel cycle and in particular enrichment since sufficient and reliable nuclear suppliers would be available and that Russia had guaranteed to supply fuel for the entire period of Bushehr's operation (see S/PV.5807, p.3). Russia acknowledged this fact (US Embassy Moscow 2007a). Consequently, while Russia in many instances notified the committee of shipments for the Bushehr nuclear power plant (e.g. S/2009/688, S/2010/682, paras 12-15, S/2012/192, para. 15) there is no indication that the exemption was contentious within the committee.

The episode shows that Council procedures on exemptions from targeted sanctions allocate decision powers and preclude powerful members from pursuing their situation-specific interests. In this case, rule-based decision-making is not the result of convincing skeptical members against substantive decision criteria as focal points, but rests upon the restriction of committee blocking powers. The exemption procedure ensures that requests which are in line with categories of exemptions succeed, despite great power interference. The sanctions committee processes decision requests according to rules, even if some members have deviating interests. Because most exemptions are processed via the notification procedure and thus preclude the committee from examining individual requests, this binds even reluctant powerful actors into rule compliance. As a result committee decisions on exemptions are increasingly rule-based.

9.3 Chapter summary

The Iran sanctions committee is a confirmatory case for the causal model of committee governance. While the permanent members had an interest in a non-nuclearized Iran, the US most vocally advocated sanctions, the UK and France favored limited sanctions for economic reasons, and China and Russia were hesitant. Whereas the proactive members sought to overcome the danger of committee blockade by pursuing the sanctions regime largely without recourse to a sanctions committee, in a second stage, as expected, the diverging interest constellation prompted rule-based decision-making in coordination situations. Hence, the Iran

sanctions regime operates both in the logic of power-based decision-making and rule-based decision-making.

The Iran sanctions regime shows that the effects of a unitary decision process without recourse to a committee stage led to power-based decisions in the form of explicitly negotiated Council package resolutions. The early phase of the Iran sanctions regime confirms the baseline expectation that decisions taken in a uniform decision process will mirror pure bargaining outcomes and reflect the constellation of interests among powerful Council members. In this stage, proactive members deliberately chose to impose targeted sanctions and to simultaneously define a set of designations to which those sanctions were applicable in a Council package resolution. This strategy was repeated four times increasingly strengthening sanctions measures over time. As a consequence, these Council resolutions were taking in a bargaining process which aimed at accumulating several aspects into large decision packages. Then, bargaining resembled the interest constellation of powerful members and did not adhere to any kind of substantive decision criteria. Implementation issues resulting from lacking criteria suggest that bargaining might not be suitable to produce problem-adequate decisions.

When Council members referred decision competencies to a sanctions committee stage in later phases of the regime, the expected effects of committee governance occurred and prompted rule-based decisions even against the interests of powerful committee members.

The Iran sanctions regime confirms that the effects of rulemaking in fact provide incentives to adopt consistent rules. In the second case episode on listing decisions within the committee, an anticipated committee blockade prompted sanctions supporters to advocate adopting a general rule for the committee on sanctions violations in a Council resolution and the establishment of a panel of experts to make future committee designations more likely to succeed. The adopted rule is consistent and does not favor any powerful member. In the case episode on the processing of sanctions exemptions within the committee, the Council adopted consistent rules that did not favor any particular powerful member.

The Iran sanctions committee confirms the expectation according to which committee members facing a stream of separate decision proposals abide by given substantive and procedural rules, even if these rules contradict situation-specific preferences of some committee members (hypothesis 1). The committee episode of listing decisions demonstrates that after the Council had provided consistent rules on listing sanctions violators, the documented embargo violations brought in front of the committee prompted even highly skeptical permanent members to accept well-documented decision proposals, while rejecting below threshold requests.

The case of sanctions exemptions shows that committee procedures allocate decision powers and deprive the committee and therefore even powerful members of the possibility to challenge decisions unfavorable to their situation-specific interests. The sanctions committee processes exemption requests according to procedures given by UNSC resolutions which only provide for committee decisions on exemptions for "extraordinary expenses", while others are processed under negative consensus or even notification procedures. UN members seeking exemptions to the assets freeze align their decision proposals to the rules and earlier precedents. Processing most exemptions as notification items precludes the committee from examining requests and forces even reluctant powerful actors to comply with committee rules.

The case of commodity sanctions on proliferation-related items shows that the Security Council can also use externally provided focal points to solve a coordination situation on non-proliferation related commodity sanctions. The Council completely relies on NSG and MTCR provided export trigger lists of as knowledge-based solutions to the issue of regulatory export control. In this case, the extremely technical nature of establishing an effective export control regime defining which items are subject to trade restrictions and which not, provides incentives to adopt given NSG and MTCR lists of proliferation-related items. Because NSG and MTCR regulators are subject to the logic of rulemaking and associated consistency pressures, case-specific interests are difficult to introduce. On the Council level, members focus on larger political questions if and when such sanctions should be applied and which larger sections of lists should be authoritative. Bargaining over the contents of such lists is extremely unattractive so that UNSC members cannot re-negotiate the content

of the lists at acceptable costs. As a result, referring to NSG/MTCR lists does provide a rule-based solution to non-proliferation commodity sanctions.

The alternative explanation, which holds that decision-making in the committee stage can be explained by the interest constellation of powerful members cannot convincingly account for observed decision-making patterns in the committee. In Council rulemaking, one cannot observe that powerful members bargained over exemption provisions that would one-sidedly favor any permanent member. On the contrary, decision criteria were consistent. Once the proactive members pursued additional sanctions designations within the committee, we cannot find any package deals that would confirm the rival explanation of power-based decision-making.

The Iran sanctions regime complements the analysis of committee governance in UNSC sanctions regimes and allows for comparing Council and sanctions committee decision modes as well as two different types of sanctions (targeted sanctions and proliferation-related commodity sanctions). The Iran sanctions committee demonstrates that the effects of committee governance are independent from the exact type of decision and equally applies to decisions associated with targeted sanctions and decisions associated with nuclear-proliferation commodity sanctions.

10 Conclusion

This study empirically analyzed how and with what consequences delegating decision competencies to sanctions committee affects the logic of decision-making among Council members and found substantial evidence that committee governance prompts rule-based decision-making. This effect can be primarily attributed to the altered decision situations resulting from the separation of rulemaking and the subsequent application of rules to a many technical implementation decisions. I find rule-based decision-making across four considerably different UNSC sanctions regimes, while the Sudan sanctions regime illustrates the boundaries of the mechanism of committee governance.

In the following, I summarize the main findings derived from the empirical analysis of Security Council sanctions regimes. Then, I discuss the theoretical implications for the understanding of the UNSC and international organizations more broadly. Finally, I offer some policy implications for the governance of Security Council sanctions.

10.1 Summary of main findings

The empirical analysis of UNSC sanctions regimes confirms the tendency towards rule-based decision-making in the Council's sanctions committees. Separating rulemaking and rule-application creates considerable incentives to decide according to generally-applicable rules in order to avoid decision blockades. The studied sanctions regimes demonstrate that even powerful actors relinquish pursuing their situation-specific interests in every case to preserve the operability of the Council's sanctions regimes. The findings exemplify that committee governance affects decision-making even in the borderline case of a 'high politics' security institution such as the Security Council, in which the same group of members decides about all important aspects of a sanctions regime.

The empirical results are robust across a range of preference constellations, sanctions measures or content of decisions. The effect is rooted in the comparable decision situation across sanctions regimes, namely, to decide about many similar

single cases over time. The rule-based nature of committee decision-making is not just observable in the Al-Qaida/Taliban sanctions committee that has attracted particular attention in the scholarly community because of the problematic aspect of fundamental human rights of affected individuals. Notably, the effect is equally observable in the sanctions regime maintaining an economic embargo on Iraq, where the committee mainly decided about humanitarian exemptions from the embargo. Beyond that, the Iraq sanctions regime shows that the effect almost immediately occurred in the early phase, before the vocal critique on the humanitarian consequences of comprehensive sanctions and any other form of institutionalization such as the Oil-for-Food Programme. The same applies to the Iran sanctions regime that imposes targeted sanctions against individuals involved in the Iranian nuclear program, but also non-proliferation related 'dual-use' commodity sanctions. Similarly, committee governance affected decision-making also in the DRC sanctions regime, where the conflict of interest lies not between the Western powers and China and Russia, but in between the three Western permanent members.

These results show that the Security Council can be transformed from an exclusive forum for great power politics in uniform Council negotiations towards a more complex organization that decides according to general rules within the scope of its sanctions regimes. While the binding effects of committee governance are not entirely intended, the effects are not fundamentally at odds with the interests of great powers insofar as rule adherence promises to produce positive decisions for sanctions committee members on a whole. Thereby, the findings illustrate that the delegation of decision competencies to committees sets significantly different incentives even for the same group of actors and leads Council members to a decision behavior that they would have unlikely chosen without the delegation to committees. In effect, while UN member states will have to accept politically motivated sanctions decisions in the Council, the sanctions committees provide a more reliable and rule-oriented decision process that promises to yield increasingly rule-based, consistent and thus more predictable decisions.

The studied case episodes of UNSC sanctions regimes provide empirical evidence that the causal mechanism of committee governance is present and works as expected. As concerns the logic of rulemaking, I expected that if the Security Council

delegates implementation decisions to a committee and concentrates on guiding decisions in the subsequent implementation stage, Council members adopt consistent substantive and procedural decision criteria for subsequent rule-application. To assess the empirical merits of this proposition, I scrutinized whether or not actors created exception clauses that only benefit few powerful members.

The empirical analysis revealed that delegating decision competencies to a committee tasked with subsequent implementation decisions creates significantly altered incentives for the delegating body and systematically leads to remarkably consistent rules despite strong situation-specific interests of powerful members. In all studied case episodes, the adopted rules did neither one-sidedly favor the permanent members nor any other parties. For instance, second case episode of the Al-Qaida/Taliban sanctions regime shows that the members of the Council adopt generally-applicable decision criteria for the listing of individuals and entities subject to targeted sanctions, although powerful Council members have diverging situation-specific interests. In the case episode on aviation sanctions against Iraq, although a permanent member had strong situation-specific interests in objecting requests by particular countries, the powerful member had to strive for a consistent bargaining position that allowed for exemptions for a specific function (i.e. humanitarian flights). Similarly, in the Iran sanctions regime, the Council adopted consistent procedures for humanitarian exemptions from the assets freeze that equally applied to all state applicants, although a permanent member had strong situation-specific interests in preventing some of these decisions in the committee stage.

The empirical analysis shows that the functions of rulemaking and rule-application do not necessarily have to be institutionally separated between Council and committee, but that the effects of rulemaking also occurred if the committee elaborated rules, which it then applied to implementation decisions. Thus, the Council can also delegate its rulemaking function explicitly or implicitly to the committee. For instance, the case episode on delisting within the Al-Qaida/Taliban sanctions regime, where the Security Council has frequently directed its committee to engage in rulemaking, exemplifies that the committee effectively separates the consideration of rules from adopting subsequent implementation decisions. In the same vein, in the case episode on humanitarian exemptions after the Gulf War within the Iraq sanctions

regime, the committee frequently derived rules from precedents in the absence of Council guidance. In this case, committee members seriously considered the consequences of a decision on a single-case request for future decisions of a similar type before even deciding on such cases. The empirical findings demonstrate that committee members are subject to the same consistency constraints when deciding about rules. Elaborating rules naturally precedes deciding about single cases. Similarly, in the context of precedents, the decision on the first case serves as rule to guide all later cases of a similar type. Hence, these results confirm that the effect of committee governance does not depend on a separation of decision bodies but is in fact caused by a systematic separation of rulemaking and subsequent rule-application.

The analysis of five Security Council sanctions committees confirms the rule-application hypothesis that if a committee of states processes separate and asymmetric decision proposals of limited scope, committee members abide by given substantive and procedural rules, even if these rules contradict situation-specific preferences of some committee members (hypothesis 1).

The case studies show that states systematically align their decision proposals to the decision criteria or previous precedents insofar as they know such rules and have the capacities to provide substantiated requests. Within the Iraq sanctions regime, while some states have simply forwarded all exemption requests received from exporting companies to the sanctions committee, other states have submitted primarily those requests that conformed to the rules and thus could be expected to be successful. Accordingly, those states that performed some sort of quality control fared substantially better overall, while this increase is rooted in the pre-selection process. Within the DRC sanctions regime, proactive states sort out those listing requests that do not conform with the decision criteria to avoid rejections by other committee members. In the committee listing episode within Iran sanctions regime, proactive committee members specifically submitted those listing requests to the committee that were equipped with the strongest evidence and conformed best to the established rules to increase the likelihood of committee approval.

Within the committee stage, decision proposals are treated separately. In the Al-Qaida/Taliban sanctions regime, the committee considered proposed designations on individuals and entities suspected of being associated with transnational terrorism as

entirely separate issues in the second stage of the regime. The listing episode in the DRC sanctions regime shows that even though states consider decision requests in sets, each of the individual requests is separately assessed. Processing exemption requests from the comprehensive trade embargo in the Iraq sanctions regime shows that the committee systematically treated every decision request on its own merits. The Sudan sanctions regime provides evidence that even if powerful members explicitly aim for a package deal within the committee, committee procedures effectively preclude adding single cases to packages because decisions are decided upon separate from one another.

There is considerable empirical evidence that in the committee stage, members accepted requests in conformity with rules and rejected requests that violated establishes rules and that thereby the same criteria were applied to every request. The case episode of committee listing decisions in the Al-Qaida/Taliban sanctions regime revealed that the existence of substantive and procedural criteria in fact allowed committee members to systematically scrutinize and block decision requests if they did not conform to established rules. Similarly, the amended rules on delisting members of the Taliban allowed proactive members to submit requests that skeptical members eventually accepted, provided that there was evidence that the respective individuals renounced terrorism. On decision-making about sanctions violators in the Iran case, the committee accepted those requests that fulfilled a high standard of evidence, while the proactive members avoided submitting requests that fell below this evidence threshold. In the second listing case episode in the DRC sanctions regime, proactive members consistently sorted out listing proposals that fell below the established standards concerning justification and identifiers. At the same time, well-documented listing proposals were accepted even if they originated from less powerful states.

The empirical analysis confirms the hypothesis that committee members abide by rules derived from precedents, even if such rules contradict situation-specific preferences of some committee members (hypothesis 2). As an alternative to formal rules when regulation is absent or ambiguous, committee members frequently resort to earlier and similar cases as precedents to avoid blockade. The assessment of the systematic documentation of the Iraq sanctions committee, which decided about

humanitarian exemptions from the comprehensive trade embargo, reveals that its decision practice was strongly influenced by spontaneous rule adherence based on precedents, which committee members used to overcome decision blockades. A systematic large-n analysis of thousands of committee decisions confirms a rule-based decision practice of the committee based on previously adopted precedents, despite the fact that two powerful committee members rejected any binding form of rules or rules emerging from precedent. The empirical evidence shows that committee members perceive no functional difference between formal rules and precedents. Similar to formal rules, committee members even accept that precedents bind non-permanent committee members that have not been member when the precedent was accepted.

Overall, the empirical assessment of UNSC sanctions regimes shows that committee governance prompted rule adherence even by the most powerful members of the international system. In other words, rules and rules derived from precedents equally bind powerful committee members, non-permanent members and other member states. Permanent members accepted committee decisions despite diverging case-specific preferences and rules have a binding effect even in key single cases insofar as actors are not interested in a blockade. In the first case episode of the Iraq sanctions regime, two permanent members gave in to a request to ship foodstuffs by a weak requestor because this request conformed to accepted rules, although they strongly opposed this request. In two case episodes, the considerable expansion of flight approvals by committee practice enabled even weak states to use the formal and informal procedures to force powerful states to unwillingly accept requests, if they complied with existing criteria. Similarly, in the Iran sanctions regime, Russia accepted listing requests with compelling evidence of sanctions violations despite opposing additional designations, because the requests conformed to established rules. In the case episode on the delisting of individuals and entities associated with the Taliban within the Al-Qaida/Taliban sanctions regime, Russia reluctantly accepted such delisting requests after the Taliban sanctions regime had been separated from the Al-Qaida sanctions regime, despite its long-standing opposition to such delistings.

As concerns the content of decisions, the empirical analysis shows that committee governance in Security Council sanctions regimes indeed prompted rule-based

sanctions decisions. In other words, the quality of the decision requests was the decisive explanatory factor for decision outcomes. This effect is robust over all case studies given the presence of a more or less pronounced shared interest of all permanent members in the functionality of the sanctions regime. In the Al-Qaida/Taliban sanctions regime, the increasing regulation of committee procedures ensured that committee members systematically sorted out unwarranted listing proposals and accepted the delisting of individuals that no longer met the designation criteria. In the DRC sanctions regime, the Western members applied a system of mutual control to ascertain that decisions conform to established rules, while those decision requests that fell short of established standards were dropped. In the Iraq sanctions committee, decisions about the exemptions from the comprehensive trade embargo consistently follow acceptable and unacceptable categories of goods purely determined by precedent. In the Iran sanctions regime, despite high evidence thresholds, proactive members were able to place successful listing requests that conformed to substantive decision criteria and were bolstered with significant evidence although skeptical members originally objected to additional designations.

The comparison of the case episode of the independent review mechanism (Office of the Ombudsperson) within the Al-Qaida/Taliban sanctions regime with case episodes of other sanctions regimes shows that the effects of committee governance are also empirically observable in the absence of such a mechanism. Hence, the Ombudsperson as an institutionalized agent provides additional incentives for rule adherence as non-conforming listing decisions can be overturned subsequently. However, it does not systematically modify the decision situation of committee members. The phase of the Al-Qaida/Taliban sanctions regime before the creation of the Ombudsperson shows that the separation of rulemaking and rule-application already drives committee members towards rule adherence. The case episode of Taliban delistings in the Al-Qaida/Taliban sanctions regime underscores that the effects of committee governance provides incentives to rule-based decision-making even for highly skeptical committee members and in the absence of the Ombudsperson. Nevertheless, without such institutionalized agents, the mechanism rests upon the willingness of committee members to carefully scrutinize decision requests and constantly bears the risk of politicization.

Three particular findings can be reconciled with the postulated causal mechanism of committee governance, but point to its limited applicability. First, the empirical analysis highlights a necessary precondition for the presence of the theoretically postulated causal mechanism of committee governance: Council members share a more or less pronounced common interest in the functionality of the sanctions regime. In other words, the effects of committee governance only occur, if actors find themselves in a coordination situation and prefer coordination over blockade. In the Sudan sanctions regime, the committee did not adopt any decisions on listing of individuals and entities subject to targeted sanctions due to the veto position of few committee members. In the DRC sanctions regime, the non-permanent member Rwanda completely blocked the committee decision process on additional committee listings during its Council tenure. This points to the fact that the delegation of decision competencies by the Council does not naturally have to result in rule-based decision-making, because every committee member, even relatively small states, can provoke a committee decision blockade. The blockade can be explained by the fact that in both cases, China and Rwanda respectively have pursued a predominant strategy of blockade to undermine the functionality of the sanctions regime by using the committee veto position under the restrictive consensus procedure. Nevertheless, both cases show that committee members principally have the tools to refloat the work of the sanctions committee through rulemaking, for instance by abandoning the consensus requirement in favor for a majority threshold. While it failed in the Sudan case, because the Chinese preferred blockade over functionality, it is reasonable to assume that it might work if the committee blockade is caused by a non-permanent member.

Second, the empirical results demonstrate that Council resolutions on the one hand and delegation to a sanctions committee on the other hand are two principled mechanisms to pursue a sanctions regime and each has considerable implications. The Iran sanctions regime provides evidence that delegation to a sanctions committee actually led to increasingly rule-based decisions in comparison to decisions observe in the uniform Council decision process. Here, the Council initially retained decision-making competencies that it delegated to a committee in other cases and in other phases of the sanctions regime. Since 2006, the Council decided about listing of individuals and entities implicated in the Iranian nuclear program and only in 2012

delegated these implementation decisions to its sanctions committee. This exemplifies that Council members do not have to transfer decisions to a sanctions committee. However, as theoretically expected the Council has not decided about listing decisions separately but accumulated many aspects of the complex sanctions regime into package decisions, which do not follow the logic of rule adherence, by trading off listing proposals with other contents of a draft resolution. In 2012, the committee took over the listing task from the Council, which yielded rule-based decisions entirely different to the decision packages adopted by the Council. Both avenues are equally plausible and there is not automaticity to delegate. Therefore, actors may choose the avenue that they perceive as achieving the larger payoffs, dependent on the circumstances.

Third, the mechanism of committee governance only becomes causally relevant, if the committee members have an actual interest in the decisions taken so that there is a certain conflict of interest among committee members. Without such a conflict of interest, committee members do not have incentives to challenge submitted decision proposals, which prompts the danger of blockade and the associated willingness to engage in rule-based decision-making in the first place. The first episode of the Al-Qaida/Taliban sanctions committee follows this logic. In particular in the wake of 9/11, this committee listed a high number of individuals and entities subject to targeted sanctions without leading to blockade. Thereby, the committee members caused a laissez-faire decision-making mode according to which listing requests were simply accepted across the board, regardless of their content, evidence and origin. From a theoretical point of view, this empirical finding highlights that the degree of rule adherence by sanctions committee members is based on the existence of a conflict of interest among Council members within the sanctions regime and their willingness to challenge and block non-conforming decisions. Indeed, this mutual system of control was observed intensively in other sanctions regimes. For instance, the US and the UK controlled other committee members in the Iraq sanctions regime. Equally, Russia and China exercised such scrutiny within the Iran sanctions regime. And in the DRC sanctions regime, the conflict of interest emerged among the Western permanent members.

The alternative explanation according to which decisions of the Security Council mirror the interest constellation among powerful members does not convincingly explain the observed patterns of committee governance in the Security Council. In fact, the logic of power-based decision-making applies to decision-making in uniform decision processes, for instance in the initial phase of the Iran sanctions regime, where the actors prefer Council package resolutions over a committee decision process. However, in all studied cases, the alternative explanation fails to account for the observed rule-based decision-making in the committee stage. For instance, the two flight exemption episodes of the Iraq sanctions committee show that even the powerful permanent members are constrained in rejecting unfavorable but rule-conforming requests by weak countries. Likewise, the committee episode of the Iran sanctions regime shows that reluctant powerful members accept well-founded requests although they do not prefer additional listings. In none of the studied cases, I found any evidence that committee members were successfully pursuing package deals on the committee level. In fact, the Sudan sanctions regime even provides empirical counter-evidence for package deals. In this case, a strategy of package deals fails on the committee level even when actors explicitly aim at such packages because the committee's organization of the no-objection procedure essentially precluded the submission of decision packages. Because the committee considered decision requests separately, proactive committee members were uncertain that their opponents would not just vote down the unfavorable part of the agreement.

The empirical alternative explanation, according to which the increasing regulation of UNSC sanctions regimes can be primarily traced back to the systematic infringement of basic due process rights in the Al-Qaida/Taliban sanctions regime, is placed within a broader context. On the one hand, these approaches explain the observable effects and the increasing regulation of the Al-Qaida/Taliban sanctions regime primarily by external pressure of states, non-governmental organizations or domestic and regional court decisions. On the other hand, these approaches ascribe the observed effects to specific institutional factors, in particular the far-reaching review and agenda-setting functions of the independent Ombudsperson, which only applies to the Al-Qaida sanctions regime. However, the empirical analysis provides evidence that the observed effect of rule-based decision-making equally occurs without external pressure by states, non-governmental organizations or court

decisions and in sanctions regimes that are not equipped with institutionalized bodies comparable to the Ombudsperson mechanism. This is particularly true for the Iraq sanctions regime that administers a comprehensive trade embargo. In that sense, the empirical analysis offers a broader perspective on explaining decision-making in Council sanctions regimes and thereby confirms practitioners' observations that committee governance in the realm of sanctions regimes is a decisive step towards a legal-regulatory approach of the Council.

10.2 Theoretical implications for the understanding of the Security Council and international organizations

In the following, I draw theoretical implications of the comparative analysis of five UNSC sanctions regimes for the conceptual understanding of the Security Council and the study of the role and workings of international organizations more broadly.

As concerns the conceptualization of the Security Council, the prevailing forum perspective does not suffice in explaining decision-making and the content of decisions in functionally differentiated Council decision processes that separate rulemaking from subsequent rule-application. At the same time, the concept of committee governance provides a fruitful basis for the analysis of differentiated decision-making processes. The analysis demonstrates that institutional theory complemented with elements from organizational theory offers a meaningful analytical instrument for systematically assessing the workings of the Security Council. In essence, the concept directs the focus towards the effect of the particular institutional setup of the Security Council on its decision-making and the decisions taken. Going beyond the scope and singularities of the institutional design of its sanctions regimes, the causal model highlights that the constraints offered by committee governance are a decisive factor for explaining Security Council decisions. This is true even though this organization is located in the realm of high politics and constitutes a purely intergovernmental body which provides wide-ranging prerogatives for the great powers. Thereby, the causal model of committee governance opens a new perspective for the analysis of the decision-making rationale of actors operating in intergovernmental security institutions, which constrain actors

in applying their material power resources and bargaining power in all instances. In fact, the causal model goes beyond neorealist concepts of international security institutions as well as institutionalist accounts according to which the field of international security eschews the logic of institutionalized cooperation that rational institutionalism observes for other low politics fields.

As concerns the implications for the study of the role and workings of international organizations, in contrast to modern regulatory theory, which argues that delegating regulatory decisions to an *independent* agent is necessary to credibly commit member states to their long-term interest, the mechanism of committee governance demonstrates that these members can be implicitly committed to rule-based governance even though they control all major decisions. In other words, the group of actors does not have to be excluded from the decision process to ensure that their long-term cooperation goal is achieved. In fact, the institutional setup, where the organization and its committee constitute of the same group of members is prevalent in international organizations and widely acceptable for their members because the alternative model of delegating decision competencies to an independent agent, for instance to a strong secretariat, limits the discretion of individual members and particularly touches upon the prerogatives of the great powers. Nonetheless, the institutional setup of committee governance also does not systematically insulate the decision-making process from political interference and constantly bears the risk of decision blockades.

The ongoing debate about the role and workings of international organizations has to accommodate for the more fundamental sources of effects of organizations and thereby has to exceed beyond the prevailing focus on agents and bureaucratic actors. This conclusion is based on the finding that even an organization, which assigns tasks to two bodies that have the same membership, significantly affects decisions, even though no independent agents or bureaucratic actors are present. The concept of structuration of decision processes takes its outset at the basic function of organizations and is capable of systematically grasping the factors influencing the decisional behavior of the organization's members. The concept of an international organization presented here incorporates the effect of agents but eschews a conceptual reduction to only *one* factor of organizational effects which may even lead to the

misperception that if there is no strong secretariat, the organization does not have an effect on decision-making. Notably, the developed theoretical concept incorporates elements derived from organization theory without leaving the fundamental assumptions of rational institutionalism and is therefore firmly grounded in mainstream international relations scholarship.

The empirical application to an organization that is considered as least prone to institutionalized forms of cooperation, suggests that the mechanism of committee governance points to a general phenomenon of international organizations. Even though one cannot easily draw conclusions from one organization to another, it is reasonable to assume that if committee governance affects decision-making within the Security Council, it will also likely have an effect in other international organizations. Since the Security Council as a 'high politics' institution in the field of international security, it is commonly regarded as particularly unsuitable for the effects of institutionalization, the findings underpin the presumption that the effects should be even more applicable to other organizations. If the mechanism is present in 'high politics' institutions then it should also be present in 'low politics' institutions that are typically regarded as more prone to rule-based governance. Particularly because the Security Council is comparatively simple structured, the findings should be transferable and applicable to other, possibly more complex structured organizations. Thereby, the selection of an institutional setting that had a low a priori likelihood of confirming the mechanism provided a strong test for a theory of committee governance.

The developed causal model of committee governance specifies how committee governance can become a factor of influence on organizational decisions and is likely to prompt rule-based decision-making in any (international) organization if the following conditions are met. The mechanism occurs if a group of actors separates the decision functions of rulemaking and rule-application. This effect is independent from the specific content of decisions provided that the single cases are entered as a stream of separate decisions. The effect is also independent from the composition of the decision-making organs (e.g. experts or members states) and even occurs if the same group of actors controls both decision-making functions. On the contrary, it does not presuppose the existence of independent agents. The effect is independent of the

question if actors actually seek to bind themselves to their long-term interest or simply separate the decision functions to reduce their workload. In any case, the precondition is that the actors have to deal with a stream of separate decisions and that all actors prefer the functionality of the institution over blockade.

10.3 Policy implications

In the following I address five policy implications for the governance of UNSC sanctions regimes. First, the Security Council should systematically employ the built-in effects of transferring a stream of single-case implementation decisions to its sanctions committees because it prompts rule-based decision-making and promises to make sanctions decisions of the Security Council more predictable. In effect, this provides for increasingly problem-adequate decisions, because they are increasingly based on evidence and information. If decision-making of Security Council sanctions committees within its sanctions regimes can in fact even bind the powerful permanent members to their interest in rule-based decisions, this has enormous implications for the Council's sanctions policy. The Security Council gains the possibility to deliberately design its sanctions regimes so as to actually produce decisions that promise to realize its political objectives, provided that Council members have an interest in the case. Consequently, the Council becomes capable of determining its own effectiveness by facilitating procedures that, for instance, provide incentives for listed individuals to change their behavior. Whereas effective decision-making and reducing the workload of the Council have mainly motivated the creation of committees and delegation of decision competencies to them in the first place, the effects of committee governance will also increase the legitimacy of the Council's sanctions decisions vis-á-vis non-Council member states.

Second, the Security Council should as much as possible separate rule-making from applying rules to single-case implementation decisions. The Security Council has a powerful governance instrument for guiding the committee stage, when it takes its role as rulemaker seriously and provides substantive and procedural decision criteria. Thereby, rules can substantially change the incentives of committee members and either allow or amend some behavioral options, while it may completely remove other options from the menu. In fact, rules create incentives for committee members

to decide consistently and transform the incentives of individual committee members to strive for their interests by submitting criteria-based decision requests. In turn, this is of vital importance for the content of the decisions taken. The elaboration of rules can also be delegated to the committee without undermining the division of rule-making and rule-application. In the studied cases, virtually every committee was involved in rule-making alongside the Council and member states frequently used the interplay between Council and committee. For instance, in the Al-Qaida case, the Council almost regularly demanded that the committee adopted increasingly clear decision criteria. In the Iraq case, the committee deliberately referred an unsolvable issue to the Council for guidance. These cases demonstrate that decision criteria can be developed as decision problems emerge or implementation decisions confront committee members with previously unexpected issues. In fact, decision criteria should be adapted over time as required.

Third, single-case implementation decisions should rigorously follow the established substantive and procedural rules. The studied cases highlight that the decision situation prompts some form of implicit commitment of committee members including the permanent members to the established rules because insistence on situation-specific interests in all cases would create decision blockades and thus be detrimental to the effectiveness of the sanctions regime in the long run. In fact, the empirical analysis shows that even powerful members have an interest in upholding the rules, even if they have contradictory case-specific interests. The studied sanctions regimes demonstrate that committee members follow decision criteria in any event so they could in fact openly commit themselves to these rules to increase the predictability of the decision process and simultaneously increase the legitimacy of the decisions.

Fourth, substantive and procedural criteria should be made widely accessible. For instance, the DRC regime shows that states, which are unacquainted with decision criteria as well as the kind and amount of evidence necessary to place successful decision requests, can add significant workload for the committee. While procedures might be public, evidentiary requirements are often subject of inaccessible committee practice. As a best practice example, the Al-Qaida/Taliban sanctions committee went great length in codifying and publishing its decision criteria in its committee

guidelines, fact sheets and standardized forms for submitting requests. Being more transparent about their procedures and criteria, sanctions committees could on the one hand reduce the number of obviously unjustified requests, increase the number of requests that have a reasonable chance of being accepted and at the same time increase the legitimacy of Council sanctions regimes in as much their rules are publicly accessible.

Fifth, the Council should increasingly make use of externally provided information as produced by Council mandated Panels of Experts in as much these bodies provide solutions to decision problems when interests diverge. The Iran sanctions regime illustrates that suggestions for listing requests made by the Panel of Experts provide a meaningful solution to a committee decision problem, precisely because they did not originate from any of the great powers. Similarly, the usage of external Nuclear Suppliers Group and Missile Technology Control Regime export trigger lists provides a means to coordinate behavior, because these lists have not been created in the context of the Iranian nuclear crisis.

In sum, to achieve a decision practice that is more aligned to rules, the Council does not have to be less politicized - as is often assumed or demanded - precisely because the separation of rulemaking and rule-application can ensure that the Council's decisions are rule-based while guaranteeing the member states right to take political decisions. In other words, it is astonishing to observe that a deliberately political organ is capable of taking fact-based technical decisions despite being composed of the world's most powerful states that more often than not have diverging interests. When decisions are indeed increasingly oriented by impersonal rules, the Council gains the ability to ensure that the "right" individuals are sanctioned and by that, minimizing or even totally obviating potential humanitarian consequences. Indeed, the effect is not entirely intended and while reducing the Council's workload is the ultimate motive, the effect rests in the separate processing of sanctions implementation decisions.

11 Bibliography

Abbott, Kenneth W./Snidal, Duncan 1998: Why States Act through Formal International Organizations, in: Journal of Conflict Resolution 42: 1, 3–32.

Abramowitz, Michael/Lynch, Colum 2007: President Imposes New Sanctions on Sudan. Some Say Action is Too Little, Too Late, in: The Washington Post, 30.05.2007, A3.

Agence France Presse 2002: US wants UN to ease sanctions on Bin Laden associates, United Nations, 16.08.2002.

Agence France Presse 2003: Three Chechen groups added to UN Security Council al-Qaeda sanctions list, United Nations, 05.03.2003.

Agence France Presse 2004: US proposes UN sanctions against Sudan militia, United Nations, 30.06.2004.

Agence France Presse 2005a: US tries three-for-one UN resolutions on Sudan, United Nations, 23.03.2005.

Agence France Presse 2005b: UN Security Council approves Sudan sanctions, United Nations, 30.03.2005.

Agence France Presse 2005c: UN Security Council expands DRCongo arms embargo, United Nations, 18.04.2005.

Agence France Presse 2005d: DR Congo president welcomes UN sanctions against rebels, Kinshasa, 04.11.2005.

Agence France Presse 2006a: US, Britain circulate list of Sudanese targeted for sanctions over Darfur violence, United Nations, 12.04.2006.

Agence France Presse 2006b: Not yet time for UN sanctions on Sudan officials: Russia, China, United Nations, 17.04.2006.

Agence France Presse 2006c: US circulates draft on sanctions on Sudanese linked to Darfur violence, United Nations, 18.04.2006.

Agence France Presse 2006d: Great lakes states seek UN, AU sanctions on rebels in DRCongo, Bujumbura, 21.04.2006.

Agence France Presse 2006e: Great Lakes countries list rebel chiefs to face sanctions, Kigali, 27.05.2006.

Agence France Presse 2006f: List of Iranian Entities or Individuals That Could Face UN Sanctions, United Nations, 11.12.2006.

Agence France Presse 2007a: China, Russia, South Africa oppose UN sanctions on Sudan, United Nations, 18.04.2007.

Agence France Presse 2007b: US consults with allies on timing of new UN sanctions over Darfur, United Nations, 29.05.2007.

Agence France Presse 2007c: UN envoys may soon get input for fresh Iran text: diplomat, United Nations, 04.12.2007.

Agence France Presse 2008a: Elements of new UN sanctions package agreed by six major powers, United Nations, 25.01.2008.

Agence France Presse 2008b: Armed Rebels in DRCongo Ordered to Disarm or Face UN Sanctions, United Nations, 13.03.2008.

Agence France Presse 2010: DR Congo army colonel added to UN sanctions list, United Nations, 02.12.2010.

Agence France Presse 2011a: Russia calls UN Iran sanctions report 'sloppy', United Nations, 13.05.2011.

Agence France Presse 2011b: Afghans want Taliban dropped from UN list, Kabul, 07.06.2011.

Agence France Presse 2011c: UN to ease Taliban sanctions to boost reconciliation, United Nations, 15.06.2011.

Agence France Presse 2011d: Iran in 'alarming' breaches of UN sanctions, envoys, United Nations, 23.06.2011.

Agence France Presse 2012a: UN sanctions against Iranian in arms smuggling, United Nations, 20.04.2012.

Agence France Presse 2012b: UN Council Calls for Sanctions on DR Congo Rebel Leaders, United Nations, 21.11.2012.

Ahmed, Gaafar K. 2010: The Chinese Stance on the Darfur Conflict, Johannesburg.

Aita, Judy 2006: United States Seeks Sanctions on Sudan Officials. Draft resolution names four linked to Darfur violence, U.S. envoy Bolton says, Washington, DC, 19.04.2006.

Alter, Karen J. 2006: Delegation to international courts and the limits of re-contracting political power, in: Hawkins, Darren G./Lake, David A./Nielson, Daniel L./Tierney, Michael J. (eds.): Delegation and Agency in International Organizations, Cambridge, MA, New York, NY, Melbourne, Madrid, Cape Town, Singapore, Sao Paulo, 312–338.

Alter, Karen J. 2008: Delegating to International Courts: Self-Binding vs. Other-Binding Delegation, in: Law and Contemporary Problems 71: 1, 37–76.

Amnesty International 2008: Security and Human Rights. Counter-terrorism and the United Nations, London.

Andreas, Peter 2005: Criminalizing Consequences of Sanctions: Embargo Busting and Its Legacy, in: International Studies Quarterly 49, 335–360.

Angelet, Nicolas 2001: International Law Limits to the Security Council, in: Gowlland-Debbas, Vera/Garcia Rubio, Mariano/Hadj-Sahraoui, Hassiba (eds.): United Nations sanctions and international law, The Hague, Boston, 71–82.

Annan, Kofi 2012: Interventions. A life in war and peace, New York, NY.

Ansell, Christopher K./Weber, Steven 1999: Organizing International Politics: Sovereignty and Open Systems, in: International Political Science Review / Revue internationale de science politique 20: 1, 73–93.

Anthony, Ian/Ahlström, Christer/Fedchenko, Vitaly 2007: Reforming nuclear export controls. The future of the Nuclear Suppliers Group, Oxford.

Armed Conflict Location & Event Data Project 2014: Rebel Groups of the DRC and Attacks on Civilians, in: http://www.crisis.acleddata.com/rebel-groups-of-the-drc-and-attacks-on-civilians/.

Associated Press 2012: UN imposes sanctions on 2 Iranian companies, United Nations, 21.12.2012.

Associated Press International 2005: China opposes U.N. sanctions against Sudan, Beijing, 31.03.2005.

Axelrod, Robert/Keohane, Robert O. 1985: Achieving Cooperation under Anarchy. Strategies and Institutions, in: World Politics 38: 01, 226–254.

Axelrod, Robert M. 1984: The Evolution of Cooperation, New York, NY.

Aziakou, Gerard 2006a: US proposes sanctions against Sudan officials, United Nations, 19.04.2006.

Aziakou, Gerard 2006b: Security Council set to take up US draft on Sudan sanctions Tuesday, United Nations, 24.04.2006.

Aziakou, Gerard 2006c: UN powers unveil Iran sanctions draft, United Nations, 25.10.2006.

Aziakou, Gerard 2006d: Britain, Russia report progress in bid to agree UN sanctions on Iran, United Nations, 13.12.2006.

Aziakou, Gerard 2006e: Security Council set to vote Friday on Iran sanctions, United Nations, 21.12.2006.

Aziakou, Gerard 2007a: China, Russia voice new reservations about tighter UN sanctions on Iran, United Nations, 09.03.2007.

Aziakou, Gerard 2007b: Six major powers clinch deal on new Iran sanctions, United Nations, 15.03.2007.

Aziakou, Gerard 2008: Iran sanctions draft readied ahead of UN vote Monday, United Nations, 29.02.2008.

Badescu, Cristina G./Bergholm, Linnea 2009: The Responsibility To Protect and the Conflict in Darfur: The Big Let-Down, in: Security Dialogue 40: 3, 287–309.

Bailey, Sydney D./Daws, Sam 1998: The Procedure of the UN Security Council, Oxford.

Baker, Peter/Sanger, David E. 2010: U.S. Makes Concessions to Russia After Gaining its Support on Iran Sanctions, in: The New York Times, 22.05.2010, A6.

Barnett, Michael N./Finnemore, Martha 1999: The Politics, Power, and Pathologies of International Organizations, in: International Organization 53: 4, 699–732.

Barnett, Michael N./Finnemore, Martha 2004: Rules for the World. International Organizations in Global Politics, Ithaca, NY.

Barnett, Michael N./Finnemore, Martha 2008: Political Approaches, in: Weiss, Thomas G./Daws, Sam (eds.): The Oxford Handbook on the United Nations, Oxford, 41–57.

Baylis, Thomas A. 1989: Governing by Committee. Collegial Leadership in Advanced Societies, Albany, NY.

BBC 2002: Swedish terror suspects cleared, 14.07.2002.

BBC 2005: DR Congo Election Hostages Freed, 03.11.2005.

BBC 2008: Eastern Congo Peace Deal Signed, 23.01.2008.

BBC 2012: Saudi dissident Faqih removed from UN sanctions list, 03.07.2012.

Beach, Derek/Pedersen, Rasmus B. 2013: Process-tracing methods. Foundations and guidelines, Ann Arbor, MI.

Bennett, Andrew 2006: Stirring the Frequentist Pot with a Dash of Bayes, in: Political Analysis 14: 3, 339–344.

Bennett, Andrew 2010: Process Tracing and Causal Inference, in: Brady, Henry E./Collier, David (eds.): Rethinking social inquiry. Diverse tools, shared standards, Lanham, MD, 207–219.

Bennett, Andrew/Checkel, Jeffrey T. 2015: Process Tracing: From Philosophical Roots to Best Practices, in: Bennett, Andrew/Checkel, Jeffrey T. (eds.): Process tracing. From metaphor to analytic tool, Cambridge, 3–38.

Bennis, Phyllis 1996: Calling the shots. How Washington dominates today's UN, New York, NY.

Bianchi, Andrea 2007: Assessing the Effectiveness of the UN Security Council's Anti-terrorism Measures: The Quest for Legitimacy and Cohesion, in: European Journal of International Law 17: 5, 881–919.

Biermann, Frank/Siebenhüner, Bernd (eds.) 2009: Managers of global change. The influence of international environmental bureaucracies, Cambridge, Mass.

Biermann, Frank/Siebenhüner, Bernd 2013: Problem solving by international bureaucracies. The influence of international secretariats on world politics, in: Reinalda, Bob (ed.): Routledge handbook of international organization, Milton Park, Abingdon, Oxon, 149–161.

Biersteker, Thomas J. 2004: Counter-terrorism measures undertaken under UN Security Council auspices, in: Bailes, Alyson J. K./Frommelt, Isabel (eds.): Business and security. Public-private sector relationships in a new security environment, Solna, Sweden, Oxford, New York, NY, 59–75.

Biersteker, Thomas J. 2010: Targeted Sanctions and Individual Human Rights, in: International Journal 65: 1, 85–103.

Biersteker, Thomas J. 2013: Scholarly Participation in Transnational Policy Networks: The Case of Targeted Sanctions, in: Bertucci, Mariano E./Lowenthal, Abraham F. (eds.): Narrowing the Gap: Scholars, Policy-Makers and International Affairs, Baltimore, London.

Biersteker, Thomas J./Eckert, Sue E. 2006: Strengthening Targeted Sanctions Through Fair and Clear Procedures, Providence, RI.

Biersteker, Thomas J./Eckert, Sue E. 2009: Addressing Challenges to Targeted Sanctions: An Update of the "Watson Report", Providence, RI.

Biersteker, Thomas J./Eckert, Sue E./Halegua, Aaron/Romaniuk, Peter 2005: Consensus from the Bottom Up? Assessing the Influence of the Sanctions Reform Processes, in: Wallensteen, Peter/Staibano, Carina (eds.): International sanctions. Between words and wars in the global system, London, New York, NY, 15–30.

Biersteker, Thomas J./Eckert, Sue E./Romaniuk, Peter 2008: International Initiatives to Combat the Financing of Terrorism, in: Biersteker, Thomas J./Eckert, Sue E. (eds.): Countering the financing of terrorism, London, New York, NY, 234–259.

Biersteker, Thomas J./Eckert, Sue E./Romaniuk, Peter/Halegua, Aaron/Reid, Natalie 2001: Targeted Financial Sanctions. A Manual for Design and Implementation. Contributions from the Interlaken Process, Providence, RI.

Biersteker, Thomas J./Eckert, Sue E./Tourinho, Marcos (eds.) 2016: Targeted sanctions. The impacts and effectiveness of United Nations action, Cambridge.

Biersteker, Thomas J./Eckert, Sue E./Tourinho, Marcos/Hudakova, Zuzana 2013: The Effectiveness of United Nations Targeted Sanctions. Findings from the Targeted Sanctions Consortium, Geneva, Providence, Rhode Island.

Blatter, Joachim/Haverland, Markus 2012: Designing case studies. Explanatory approaches in small-n research, Houndmills, Basingstoke, Hampshire.

Blokker, Niels/Schrijver, Nico 2005: The Security Council and the use of force. Theory and reality - a need for change?, Leiden.

Bolton, John R. 2006a: DRC Sanctions: UK Proposes Revised List of Names: 06USUNNEWYORK1041_a, 23.05.2006.

Bolton, John R. 2006b: DRC Sanctions: Committee Chair Calls for More Names: 06USUNNEWYORK1228_a, 16.06.2006.

Bolton, John R. 2006c: UNSC/Iran: November 3rd Meeting P5 Plus One: 06USUNNEWYORK2123_a, 06.11.2006.

Bolton, John R. 2007: Surrender is not an option. Defending America at the United Nations and abroad, New York, NY.

Borger, Julian 2007a: Bush and Blair threaten new Sudan sanctions: US to block transactions involving dollars Bashir asks to renegotiate deal on peacekeepers, in: The Guardian, 15.03.2007, 27.

Borger, Julian 2007b: Sudan: Blair's no-fly zone plan likely to be grounded despite growing crisis: Death toll continues to grow but hopes of relieving Darfur tragedy diminished by intervention in Iraq, in: The Guardian, 28.03.2007, 19.

Borszik, Oliver 2014: International Sanctions against Iran under President Ahmadinejad: Explaining Regime Persistence, Hamburg.

Bosco, David L. 2009: Five to rule them all. The UN Security Council and the making of the modern world, Oxford.

Bosco, David L. 2014a: Assessing the UN Security Council: A Concert Perspective. Global Governance: A Review of Multilateralism and International Organizations, in: Global Governance: A Review of Multilateralism and International Organizations 20: 4, 545–561.

Bosco, David L. 2014b: Rough justice. The International Criminal Court in a world of power politics, Oxford.

Bothe, Michael 2008: Security Council's Targeted Sanctions against Presumed Terrorists, in: Journal of International Criminal Justice 6, 541–555.

Bothe, Michael 2012: Special Section: Peacekeeping, in: Simma, Bruno/Khan, Daniel-Erasmus/Mosler, Hermann/Nolte, Georg/Paulus, Andreas/Wessendorf, Nikolai (eds.): The Charter of the United Nations: A Commentary, Oxford.

Boucher, Alix J. 2010: UN Panels of Experts and UN Peace Operations: Exploiting Synergies for Peacebuilding.

Boucher, Richard 1990: State Department Regular Briefing, Washington, DC, 14.09.1990.

Boucher, Alix J./Holt, Victoria K. 2007: Tracking Bad Guys, Small Arms, and Illicit Trade: The Role of United Nations Panels of Experts.

Boucher, Alix J./Holt, Victoria K. 2009: Targeting Spoilers. The Role of United Nations Panel of Experts, Washington, DC.

Boustany, Nora 2002: Swedes Appeal for Access to Money, in: The Washington Post, 23.01.2002, A13.

Bowring, Bill 2010: 'Terrorist Lists' and Procedural Human Rights: Introduction A Collision between UN Law, EU Law and Strasbourg Law?, in: Banakar, Reza (ed.): Rights in context. Law and justice in late modern society, Burlington, VT.

Brady, Henry E./Collier, David (eds.) 2010: Rethinking social inquiry. Diverse tools, shared standards, Lanham, MD.

Brennan, Geoffrey/Buchanan, James M. 1985: The Reason of Rules. Constitutional Political Economy, Cambridge.

Brooks, Risa A. 2002: Sanctions and Regime Type: What Works, and When?, in: Security Studies 11: 4, 1–50.

Brummer, Klaus 2013: The Reluctant Peacekeeper: Governmental Politics and Germany's Participation in EUFOR RD Congo, in: Foreign Policy Analysis 9: 1, 1–20.

Brzoska, Michael 2001: Design and Implementation of Arms Embargoes and Travel and Aviation Related Sanctions. Results of the 'Bonn-Berlin Process', Bonn.

Brzoska, Michael 2003: From Dumb to Smart? Recent Reforms of UN Sanctions, in: Global Governance 9, 519–535.

Buchanan, James M./Tullock, Gordon 1965: The calculus of consent. Logical foundations of constitutional democracy, Ann Arbor, MI.

Burkhardt, Paul 2006: Key Security Council nations at odds over U.N. resolution imposing sanctions on Iran, United Nations, 27.10.2006.

Business World 2010: China dislikes proposed Iran sanctions, 12.04.2010.

Buzan, Barry/Albert, Mathias 2010: Differentiation: A Sociological Approach to International Relations Theory, in: European Journal of International Relations 16: 3, 315–337.

Byers, Michael 2004: Agreeing to Disagree: Security Council Resolution 1441 and Intentional Ambiguity, in: Global Governance 10: 2, 165–186.

Califano, Mark/Meyer, Jeffrey 2006: Good Intentions Corrupted. The Oil for Food Scandal and the Threat to the UN, New York, NY.

Campbell, Barry R./Elliott, Kimberly A./Schlittler, Gilberto/Carver, Jeremy P./Newcomb, Danforth 1991: The Gulf War: The Law of International Sanctions, in: Proceedings of the Annual Meeting (American Society of International Law) 85, 169–190.

Carayannis, Tatiana 2013: The Democratic Republic of the Congo, 1996-2012, in: Boulden, Jane (ed.): Responding to conflict in Africa. The United Nations and regional organizations, New York, NY, 177–202.

Carisch, Enrico 2014: Congo's Golden Web, Johannesburg.

Carisch, Enrico/Rickard-Martin, Loraine 2011: Global Threats and the Role of United Nations Sanctions, New York, NY.

Carisch, Enrico/Rickard-Martin, Loraine 2013: Sanctions and the Effort to Globalize Natural Resource Governance, New York, NY.

Carmichael, Lachlan 2007: Powers fail to reach deal on Iran sanctions, Washington, DC, 20.12.2007.

Carnegie, Marc 2005: US pushes measures to end Darfur killing, United Nations, 15.02.2005.

Casert, Raf 2007: EU wants tougher action on the Darfur crisis but sees limited options, Brussels, 26.03.2007.

Cassese, Antonio/Fayek, Mohammed/Jilani, Hina/Ntsebeza, Dumisa/Striggner-Scott, Therese 2005: Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General. Pursuant to Security Council Resolution 1564 of 18 September 2004, Geneva.

Cassimon, Danny/Engelen, Peter-Jan/Reyntjens, Filip 2013: Rwanda's involvement in Eastern DRC: A criminal real options approach, in: Crime, Law and Social Change 59: 1, 39–62.

Charbonneau, Bruno 2010: France, in: Black, David R./Williams, Paul D. (eds.): The international politics of mass atrocities. The case of Darfur, London, New York, NY, 213–231.

Charbonneau, Louis 2012a: Exclusive: U.N. Drops Saudi Dissident from al Qaeda Blacklist, United Nations, 01.07.2012.

Charbonneau, Louis 2012b: U.N. confirms Saudi dissident, his group off al Qaeda list, United Nations, 02.07.2012.

Charbonneau, Louis 2012c: Saudi man dropped from U.N. al Qaeda sanctions list, United Nations, 05.10.2012.

Charbonneau, Louis 2013: Rwanda blocks proposed U.N. sanctions for two Congo rebels, United Nations, 28.08.2013.

Charbonneau, Louis/Nichols, Michelle 2012: Rwanda, Uganda arming rebellion in Congo, UN claims, in: The Globe and Mail, 17.10.2012, A15.

Charbonneau, Louis/Nichols, Michelle 2013: Exclusive-Glencore, Trafigura deals with Iran may have skirted sanctions-UN, United Nations, 22.05.2013.

Charron, Andrea 2011: UN sanctions and conflict. Responding to peace and security threats, London.

Charron, Andrea 2013: Sanctions and Africa: United Nations and Regional Responses, in: Boulden, Jane (ed.): Responding to conflict in Africa. The United Nations and regional organizations, New York, NY, 77–98.

Chesterman, Simon/Pouligny, Béatrice 2003: Are Sanctions Meant to Work? The Politics of Creating and Implementing Sanctions Through the United Nations, in: Global Governance 9: 4, 503–518.

CNN 2005: U.S. proposes 10,000 U.N. peacekeepers for Sudan, United Nations, 14.02.2005.

Cockayne, James/Malone, David M. 2006: Creeping Unilateralism. How Operation Provide Comfort and the No-Fly Zones in 1991 and 1992 Paved the Way for the Iraq Crisis of 2003, in: Security Dialogue 37: 1, 123–141.

Cockett, Richard 2010: Sudan. Darfur and the failure of an African state, New Haven.

Coleman, Jules 1988: Markets, morals and the law, Cambridge.

Collier, David 2011: Understanding Process Tracing, in: PS: Political Science & Politics 44: 04, 823–830.

Comras, Victor D. 2010: Flawed Diplomacy. The United Nations & the War on Terrorism, Dulles, VA.

Conlon, Paul 1995a: Die fragwürdige Sanktionspraxis der UNO, in: Aussenpolitik 46: 4, 327–338.

Conlon, Paul 1995b: Lessons From Iraq: The Functions of the Iraq Sanctions Committee as a Source of Sanctions Implementation Authority and Practice, in: Virginia Journal of International Law 35: 3, 633–668.

Conlon, Paul 1996a: Legal Problems at the Centre of United Nations Sanctions, in: Nordic Journal of International Law 65, 73–90.

Conlon, Paul 1996b: The Humanitarian Mitigation of UN Sanctions: German Yearbook of International Law, Berlin, 249–284.

Conlon, Paul 2000: United Nations sanctions management. A case study of the Iraq Sanctions Committee, 1990-1994, Ardsley, N.Y.

Contessi, Nicola P. 2010: Multilateralism, Intervention and Norm Contestation: China's Stance on Darfur in the UN Security Council, in: Security Dialogue 41: 3, 323–344.

Cooley, Alexander/Spruyt, Hendrik 2009: Contracting states. Sovereign transfers in international relations, Princeton.

Cooper, Helen 2006: Draft Resolution on Iran Drops Threat of Sanctions, in: The International Herald Tribune, 30.11.2006, A4.

Cortright, David 2009: Patterns of Implementation. Do Listing Practices Impede Compliance with UN Sanctions? A Critical Assessment.

Cortright, David/De Wet, Erika 2010: Human Rights Standards for Targeted Sanctions.

Cortright, David/Lopez, George A. (eds.) 2000: The sanctions decade. Assessing UN strategies in the 1990s, Boulder, CO.

Cortright, David/Lopez, George A. (eds.) 2002: Smart sanctions. Targeting economic statecraft, Lanham, MD.

Cortright, David/Lopez, George A. 2004: Reforming Sanctions, in: Malone, David M. (ed.): The UN Security Council: From the Cold War to the 21st Century, Boulder, CO, 167–180.

Cortright, David/Lopez, George A./Gerber, Linda 2002: Sanctions and the search for security. Challenges to UN action, Boulder, CO.

Cortright, David/Lopez, George A./Gerber-Stellingwerf, Linda 2008a: The Sanctions Era: Themes and Trends in UN Security Council Sanctions since 1990, in: Lowe, Alan V./Roberts, Adam/Welsh, Jennifer/Zaum, Dominik (eds.): The United Nations Security Council and War. The Evolution of Thought and Practice since 1945, Oxford, New York, 205–225.

Cortright, David/Lopez, George A./Gerber-Stellingwerf, Linda/Fackler, Eliot/Persinger, Sarah/Weaver, Joshua 2009: Human Rights and Targeted Sanctions. An Action Agenda for Strenghening Due Process Procedures.

Cortright, David/Lopez, George A./Gerber-Stellingwerf, Linda/Fackler, Eliot/Weaver, Joshua 2010: Integrating UN Sanctions for Peace and Security, Goshen, IN.

Cortright, David/Lopez, George A./Gerber-Stellingwerf, Linda 2008b: Sanctions, in: Weiss, Thomas G./Daws, Sam (eds.): The Oxford Handbook on the United Nations, Oxford.

Couturier, Herve 2005: US miffed by UN failure to stop Darfur violence, United Nations, 11.10.2005.

Cramér, Per 2003: Recent Swedish Experiences with Targeted UN Sanctions: The Erosion of Trust in the Security Council, in: De Wet, Erika/Nollkaemper, Andre (eds.): Review of the Security Council by Member States, Antwerp, 85–107.

Craven, Matthew 2002: Humanitarianism and the Quest for Smarter Sanctions, in: European Journal of International Law 13: 1, 43–61.

Crawford, David/Boudreaux, Joe L./Solomon, Jay 2010: U.S. Softens Sanctions Plan Against Iran, in: The Wall Street Journal, 25.03.2010, A1.

Cronin, Bruce/Hurd, Ian (eds.) 2008: The UN Security Council and the politics of international authority, London, New York, NY.

Cryer, Robert 2006: Sudan, Resolution 1593, and International Criminal Justice, in: Leiden Journal of International Law 19: 01, 195–222.

Curtis, Devon 2013: China and the Insecurity of Development in the Democratic Republic of the Congo (DRC), in: International Peacekeeping 20: 5, 551–569.

Daase, Christopher 1999: Spontaneous Institutions: Peacekeeping as an International Convention, in: Haftendorn, Helga/Keohane, Robert O./Wallander, Celeste A. (eds.): Imperfect Unions: Security Institutions over Time and Space, Oxford, 223–258.

Daly, Martin W. 2007: Darfur's sorrow. A history of destruction and genocide, Cambridge, MA.

Davies, Philip H. J. 2001: Spies as Informants: Triangulation and the Interpretation of Elite Interview Data in the Study of the Intelligence and Security Services, in: Politics 21: 1, 73–80.

De Wet, Erika/Nollkaemper, Andre (eds.) 2003: Review of the Security Council by Member States, Antwerp.

Deitelhoff, Nicole 2009: The Discursive Process of Legalization: Charting Islands of Persuasion in the ICC Case, in: International Organization 63: 01, 33–65.

Department of Defense 2009: Annual Report to Congress. Military Power of the People's Republic of China, Washington, DC.

Deutsche Presse Agentur 2005: U.N. Security Council team urges DR Congo to disarm militias, Entebbe, Uganda, 09.11.2005.

DeYoung, Karen 2002: U.S. and China Ask U.N. to List Separatists as Terror Group, in: The Washington Post, 11.09.2002, A13.

DeYoung, Karen/Warrick, Joby 2013: Iran is building militias in Syria, in: The Washington Post, 11.02.2013, A1.

Di Frigressi Rattalma, Marco/Treves, Tullio (eds.) 1999: The United Nations Compensation Commission. A Handbook, Dordrecht.

Dodge, Toby 2010: The failure of sanctions and the evolution of international policy towards Iraq, 1990–2003, in: Contemporary Arab Affairs 3: 1, 83–91.

Dörfler, Thomas/Gehring, Thomas 2015: Wie internationale Organisationen durch die Strukturierung von Entscheidungsprozessen Autonomie gewinnen. Der Weltsicherheitsrat und seine Sanktionsausschüsse als System funktionaler Differenzierung, in: Conceição-Heldt, Eugénia d./Koch, Martin/Liese, Andrea (eds.): Internationale Organisationen. Autonomie, Politisierung, interorganisationale Beziehungen und Wandel, Baden-Baden, 54–80.

dos Reis Stefanopoulos, Alexandra/Lopez, George A. 2012: Getting Smarter About Sanctions? Has Security Council Learning Occured in Targeted Sanctions, 1993-2013? Paper presented at the 2012 Annual Convention of the International Studies Association, San Diego, CA, April 1-4, 2012.

Doss, Alan 2014: In the Footsteps of Dr Bunche: The Congo, UN Peacekeeping and the Use of Force, in: Journal of Strategic Studies 37: 5, 703–735.

Doxey, Margaret 2000: United Nations Sanctions: Lessons of Experience, in: Diplomacy & Statecraft 11: 1, 1–18.

Doyle, John 2004: Irish Diplomacy on the UN Security Council 2001–2: Foreign Policy–making in the Light of Day, in: Irish Studies in International Affairs 15: -1, 73–101.

Doyle, Leonard 1990a: Crisis in the Gulf: US yields on total food embargo, in: The Independent, 11.09.1990, 9.

Doyle, Leonard 1990b: Crisis in the Gulf: UN races to avert starvation in Kuwait; Sanctions committee responds to Indian plea to lift embargo on food and medical aid for stranded foreigners, in: The Independent, 12.09.1990, 8.

Drezner, Daniel W. 2012: Wake me when WikiLeaks publishes the Illuminati e-mails, in: http://foreignpolicy.com/2012/02/27/wake-me-when-wikileaks-publishes-the-illuminati-e-mails/.

Duffy, Terence 2000: Sanctions and Human Rights: Humanitarian Dilemmas, in: Global Dialogue 2: 3.

Easton, David 1965a: A framework for political analysis, Englewood Cliffs, N.J.

Easton, David 1965b: A systems analysis of political life, Chicago, IL.

Eckert, Sue E. 2008: The US regulatory approach to terrorist financing, in: Biersteker, Thomas J./Eckert, Sue E. (eds.): Countering the financing of terrorism, London, New York, NY, 209–233.

Eckert, Sue E./Biersteker, Thomas J. 2012: Due Process and Targeted Sanctions. An Update of the "Watson Report", Providence, RI.

Eckholm, Erik 2002: U.S. Labeling of Group in China as Terrorist is Criticized, in: The New York Times, 13.09.2002, A6.

Eckstein, Harry 1975: Case Study and Theory in Political Science, in: Greenstein, Fred I./Polsby, Nelson W. (eds.): Handbook of political science, Reading, MA, 79–138.

Edwards, Alex 2014: "Dual containment" in the Persian Gulf. The USA, Iran, and Iraq, 1991-2000, New York, NY.

Eilstrup-Sangiovanni, Mette 2009: Varieties of Cooperation. Government Networks in International Security, in: Kahler, Miles (ed.): Networked politics. Agency, power, and governance, Ithaca, NY, 194–227.

Elliott, Kimberly A./Uimonen, Peter P. 1993: The effectiveness of economic sanctions with application to the case of Iraq, in: Japan and the World Economy 5: 4, 403–409.

Elsig, Manfred 2010: The World Trade Organization at work: Performance in a member-driven milieu, in: The Review of International Organizations 5: 3, 345–363.

Elster, Jon 1989: The cement of society. A study of social order, Cambridge u.a.

Enough Project 2015: Armed Groups, in: http://www.enoughproject.org/conflicts/eastern_congo/armed-groups.

Epstein, David/O'Halloran, Sharyn 1999: Delegating powers. A transaction cost politics approach to policy making under separate powers, Cambridge, UK.

Ereli, Adam 2004: State Department Regular Briefing, Washington, DC, 30.06.2004.

Eriksson, Mikael 2010: Unintended Consequences of Targeted Sanctions, in: Daase, Christopher/Friesendorf, Cornelius (eds.): Rethinking security governance. The problem of unintended consequences, London, New York, NY, 157–175.

Farley, Maggie 2004: Security Council Votes to Provide Aid After End to Sudan Civil War. The U.N. resolution is aimed at nudging the nation's warring sides to abide by a newly signed pact and finalize a peace agreement by Dec. 31., in: Los Angeles Times, 20.11.2004.

Farrall, Jeremy M. 2007: United Nations Sanctions and the Rule of Law, Cambridge, MA, New York, NY, Melbourne, Madrid, Cape Town, Singapore, Sao Paulo, Delhi.

Farrall, Jeremy M. 2009: Sould the United Nations Security Council leave it to the experts? The governance and accountability of UN sanctions monitoring, in: Farrall, Jeremy M./Rubenstein, Kim (eds.): Sanctions, Accountability and Governance in a Globalised World, 191–214.

Farrall, Jeremy M. 2010: The World Summit process and UN sanctions reform: between rhetoric and force, in: Danchin, Peter G./Fischer, Horst (eds.): United Nations reform and the new collective security, Cambridge [U.K.], New York, NY.

Fassbender, Bardo 2006: Targeted Sanctions and Due Process. The responsibility of the UN Security Council to ensure that fair and clear procedures are made available to individuals and entities targeted with sanctions under Chapter VII of the UN Charter, Berlin.

Fearon, James/Wendt, Alexander 2002: Rationalist vs. Constructivism: A Skeptical View, in: Carlsnaes, Walter/Risse, Thomas/Simmons, Beth A. (eds.): Handbook of international relations, Los Angeles, CA, 52–72.

Fearon, James D. 1998: Bargaining, Enforcement, and International Cooperation, in: International Organization 52: 02, 269–305.

Federal News Service 2004: Hearing of the Senate Foreign Relations Committee, Washington, DC, 09.09.2004.

Feinäugle, Clemens A. 2010: The UN Security Council Al-Qaida and Taliban Sanctions Committee: Emerging Principles of International Institutional Law for the Protection of Individuals?, in: Bogdandy, Armin von/Wolfrum, Rüdiger/Bernstorff, Jochen/Dann, Philipp/Goldmann, Matthias (eds.): The Exercise of Public Authority by International Institutions. Advancing International Institutional Law, Heidelberg, New York, 101–131.

Finnemore, Martha/Sikkink, Kathryn 1998: International Norm Dynamics and Political Change, in: International Organization 52: 4, 887–917.

Fleischhauer, Carl-August 1991: Wirtschaftliche Zwangsmaßnahmen in Recht und Praxis der Weltorganisation. Die Anwendung von Sanktionen durch die Vereinten Nationen in der Golfkrise, in: Vereinte Nationen 39: 2, 41–44.

Flint, Julie 2007: Darfur's Armed Movements, in: Waal, Alex de (ed.): War in Darfur and the search for peace, Cambridge, MA, 140–172.

Flint, Julie/Waal, Alex de 2009: Darfur. A new history of a long war, London.

Foot, Rosemary 2007: The United Nations, Counter Terrorism and Human Rights: Institutional Adaptation and Embedded Ideas, in: Human Rights Quarterly 29: 2, 489–514.

Gambino, Anthony W. 2014: Democratic Republic of the Congo, in: Genser, Jared/Stagno Ugarte, Bruno (eds.): The United Nations Security Council in the Age of Human Rights, New York, NY, 357–379.

Gamel, Kim 2002: Security Council votes on U.S. proposal to lift some sanctions on terror finance suspects for humanitarian reasons, United Nations, 20.12.2002.

Garrett, Geoffrey/Weingast, Barry R. 1993: Ideas, Interests, and Institutions: Constructing the European Community's Internal Market, in: Goldstein, Judith/Keohane, Robert O. (eds.): Ideas and Foreign Policy. Beliefs, Institutions, and Political Change, Ithaca, NY.

Gazzini, Tarcisio 2005: The changing rules on the use of force in international law, Huntington, NY.

Gearan, Anne 2007: Draft Iran sanctions plan would punish elite military force and large bank, Washington, DC, 11.12.2007.

Gedda, George 1992: U.S. Rebukes Sudan on Beef Sales to Iraq, Washington, DC, 06.10.1992.

Gegout, Catherine 2009: The West, Realism and Intervention in the Democratic Republic of Congo (1996–2006), in: International Peacekeeping 16: 2, 231–244.

Gehring, Thomas 2002: Die Europäische Union als komplexe internationale Organisation. Wie durch Kommunikation und Entscheidung soziale Ordnung entsteht, Baden-Baden.

Gehring, Thomas 2003: Communicative Rationality in European Governance? Interests and Communicative Action in Functionally Differentiated Single Market Regulation, in: Eriksen, Erik O./Joerges, Christian/Neyer, Jürgen (eds.): European Governance, Deliberation and the Quest for Democratization, Oslo, 57–140.

Gehring, Thomas 2004: The consequences of delegation to independent agencies: Separation of powers, discursive governance and the regulation of telecommunications in Germany, in: European Journal of Political Research 43: 4, 677–698.

Gehring, Thomas 2009: Die Autonomie Internationaler Organisationen: Lehren aus der systemtheoretischen Organisationstheorie, in: Dingwerth, Klaus/Kerwer, Dieter/Nölke, Andreas (eds.): Die Organisierte Welt: Internationale Beziehungen und Organisationsforschung, Baden-Baden, 60–95.

Gehring, Thomas/Dörfler, Thomas 2013: Division of Labor and Rule-based Decisionmaking Within the UN Security Council: The Al-Qaeda/Taliban Sanctions Regime, in: Global Governance 19: 4, 567–587.

Gehring, Thomas/Kerler, Michael 2007: Neue Entscheidungsverfahren in der Weltbank. Wie institutionelle Strukturen zu gutem Regieren führen, in: Zeitschrift für Internationale Beziehungen 14: 2, 217–251.

Gehring, Thomas/Kerler, Michael 2008: Institutional Stimulation of Deliberative Decision-Making. Division of Labour, Deliberative Legitimacy and Technical Regulation in the European Single Market, in: Journal of Common Market Studies 46: 5, 1001–1023.

Gehring, Thomas/Krapohl, Sebastian/Kerler, Michael/Stefanova, Sachka 2005: Rationalität durch Verfahren in der Europäischen Union. Europäische Arzneimittelzulassung und Normung technischer Güter, Baden-Baden.

Gehring, Thomas/Plocher, Isabel 2009: Making an Administrative Trustee Agent Accountable: Reason-Based Decision Making within the Kyoto Protocol's Clean Development Mechanism, in: International Studies Quarterly 53: 3, 669–693.

Gehring, Thomas/Ruffing, Eva 2008: When Arguments Prevail Over Power: The CITES Procedure for the Listing of Endangered Species, in: Global Environmental Politics 8: 2, 123–148.

Genser, Jared/Barth, Kate 2014: Targeted Sanctions and Due Process of Law, in: Genser, Jared/Stagno Ugarte, Bruno (eds.): The United Nations Security Council in the Age of Human Rights, New York, NY, 195–246.

George, Alexander L./Bennett, Andrew 2005: Case studies and theory development in the social sciences, Cambridge, MA.

Gerhardt, Michael J. 2005: The Limited Path Dependency of Precedent, in: Journal of Constitutional Law 7: 4, 905–1000.

Gerring, John 2004: What Is a Case Study and What Is It Good for?, in: American Political Science Review 98: 02, 341–354.

Gerring, John 2007: Case study research. Principles and practices, Cambridge, MA, New York, NY, Melbourne, Madrid, Cape Town, Singapore, Sao Paulo, Delhi, Mexico City.

Gerring, John 2009: The Case Study: What it is and What it Does, in: Boix, Carles/Stokes, Susan C. (eds.): The Oxford Handbook of Comparative Politics, 90–122.

Gerth, Jeff/Miller, Judith 2001: A Nation Challenged: On the List; Philanthropist, or Fount of Funds for Terrorists?, in: The New York Times, 13.10.2001, B3.

Giumelli, Francesco 2011: Coercing, constraining and signalling. Explaining UN and EU sanctions after the Cold War, Colchester.

Giumelli, Francesco 2013: Beyond Intergovernmentalism: The Europeanization of Restrictive Measures?, in: Journal of Contemporary European Research 9: 3, 390–405.

Gladstone, Rick 2012: U.S. Acts with Europe to strengthen Iran Penalties, in: The New York Times, 22.12.2012, A9.

Goede, Marieke de 2011: Blacklisting and the ban: Contesting targeted sanctions in Europe, in: Security Dialogue 42: 6, 499–515.

Goldberg, Mark L. 2006: The test, in: The American Prospect, 17.02.2006.

Goldstein, Kenneth 2002: Getting in the Door: Sampling and Completing Elite Interviews, in: Political Science & Politics 35: 04, 669–672.

Gootman, Elissa 2006: Security Council Approves Sanctions Against Iran Over Nuclear Program, in: The New York Times, 24.12.2006, A1.

Gordon, Joy 2010: Invisible War. The United States and the Iraq Sanctions, Cambridge, MA, London.

Gottemoeller, Rose 2007: The Evolution of Sanctions in Practice and Theory, in: Survival 49: 4, 99–110.

Gowan, Richard 2011: From Rapid Reaction to Delayed Inaction? Congo, the UN and the EU, in: International Peacekeeping 18: 5, 593–611.

Gowlland-Debbas, Vera 1990: Collective responses to illegal acts in international law, Dordrecht, Geneva.

Gowlland-Debbas, Vera 2001: UN Sanctions and International Law: An Overview, in: Gowlland-Debbas, Vera/Garcia Rubio, Mariano/Hadj-Sahraoui, Hassiba (eds.): United Nations sanctions and international law, The Hague, Boston, 1–28.

Graham-Brown, Sarah 1999: Sanctioning Saddam. The politics of intervention in Iraq, London.

Grant, Ruth W./Keohane, Robert O. 2005: Accountability and Abuses of Power in World Politics, in: American Political Science Review 99: 01, 29–43.

Grieco, Joseph M. 1988: Anarchy and the limits of cooperation. A realist critique of the newest liberal institutionalism, in: International Organization 42: 03, 485–507.

Gross Stein, Janice 1989: Getting to the Table: Processes of International Prenegotiation, in: International Journal 44: 2, 231–236.

Grzyb, Amanda F. 2010: Media Coverage, Activism, and Creating Public Will for Intervention in Rwanda and Darfur, in: Grzyb, Amanda F. (ed.): The World and Darfur. International response to crimes against humanity in western Sudan, Montreal, 61–94.

Gurule, Jimmy 2002: Update on Tracking the Financial Assets of Terrorists: One Year Later (Under Secretary of Treasury for Enforcement), Washington, DC, 09.09.2002.

Gutherie, Peter 2005: Security Council Sanctions and the Protection of Individual Rights, in: NYU Annual Survey of American Law 60: 3, 491–542.

Haggar, Ali 2007: The Origins and Organization of the Janjawiid in Darfur, in: Waal, Alex de (ed.): War in Darfur and the search for peace, Cambridge, MA, 113–139.

Hakimdavar, Golnoosh 2014: A strategic understanding of UN economic sanctions. International relations, law, and development, New York, NY, Milton Park, Abingdon, Oxon.

Hall, Celia/Doyle, Leonard/Dowden, Richard 1990: Khamenei denounces US; Washington backs down over block on food and medicine to Iraq as Iran's spiritual leader calls fight a holy war, in: The Independent, 13.09.1990, A1.

Hamilton, Rebecca 2011: Fighting for Darfur. Public Action and the Struggle to Stop Genocide, New York, NY.

Hamilton, Rebecca/Hazlett, Chad 2007: "Not on our watch": The Emergence of the American Movement for Darfur, in: Waal, Alex de (ed.): War in Darfur and the search for peace, Cambridge, MA, 337–367.

Hannay, David Sir 2000: Yale-UN Oral History, in: , New York, NY.

Hannay, David Sir 2008: New world disorder. The UN after the Cold War: an insider's view, London.

Happaerts, Sander 2009: Dealing with Darfur: The UN Security Council Enters A Complex Battleground, in: Wouters, Jan/Drieskens, Edith/Biscop, Sven (eds.): Belgium in the UN Security Council. Reflections on the 2007-2008 membership, Antwerpen, 103–113.

Hasenclever, Andreas/Mayer, Peter/Rittberger, Volker 1996: Interests, Power, Knowledge: The Study of International Regimes, in: Mershon International Studies Review 40: 2, 177–228.

Hasenclever, Andreas/Mayer, Peter/Rittberger, Volker 1997: Theories of international regimes, Cambridge, New York, NY, Melbourne, Madrid, Cape Town, Sao Paulo.

Hawkins, Darren G./Lake, David A./Nielson, Daniel L./Tierney, Michael J. (eds.) 2006a: Delegation and Agency in International Organizations, Cambridge, MA, New York, NY, Melbourne, Madrid, Cape Town, Singapore, Sao Paulo.

Hawkins, Darren G./Lake, David A./Nielson, Daniel L./Tierney, Michael J. 2006b: Delegation Under Anarchy: States, International Organizations, and Principal-Agent

Theory, in: Hawkins, Darren G./Lake, David A./Nielson, Daniel L./Tierney, Michael J. (eds.): Delegation and Agency in International Organizations, Cambridge, MA, New York, NY, Melbourne, Madrid, Cape Town, Singapore, Sao Paulo, 3–38.

Heupel, Monika 2007: Adapting to Transnational Terrorism: The UN Security Council's Evolving Approach to Terrorism, in: Security Dialogue 38: 4, 477–499.

Heupel, Monika 2008: I've got a little list. UN and EU terrorist blacklists, in: World Today, 27–28.

Heupel, Monika 2009: Multilateral Sanctions Against Terror Suspects and the Violation of Due Process Standards, in: International Affairs 85: 2, 307–321.

Heupel, Monika 2013: With Power Comes Responsibility: Human Rights Protection in United Nations Sanctions Policy. Human rights protection in United Nations sanctions policy, in: European Journal of International Relations 19: 4, 1–24.

Hindustan Times 2011: India blocks dilution of anti-terror mechanism, in: Hindustan Times, 18.06.2011.

Hoffmann, Julia 2008: Terrorism Blacklisting: Putting European Human Rights Guarantees to the Test, in: Constellations 15: 4, 543–560.

Hoge, Warren 2004a: At U.N., U.S. Threatens Penalties on Sudan, in: The New York Times, 22.07.2004, A3.

Hoge, Warren 2004b: U.S. Alters Sudan Resolution to Attract U.N. Votes, in: The New York Times, 30.07.2004, A7.

Hoge, Warren 2004c: U.S. Urges Security Council to Take Tougher Stance on Sudan, in: The New York Times, 09.09.2004, A5.

Hoge, Warren 2004d: U.S. Proposes A Softer Threat On Sudan's Oil, in: The New York Times, 15.09.2004, A13.

Hoge, Warren 2004e: Authority Is Approved For Sanctions Against Sudan, in: The New York Times, 19.09.2004, A12.

Hoge, Warren 2005a: France Asking U.N. to Refer Darfur to International Court, in: The New York Times, 24.03.2005, A3.

Hoge, Warren 2005b: U.N. Council Approves Penalties in Darfur, in: The New York Times, 30.03.2005, A6.

Hoge, Warren 2006a: Peacekeepers and Diplomats, Seeking to End Darfur's Violence, Hit Roadblock, in: The New York Times, 01.03.2006, A10.

Hoge, Warren 2006b: U.N. Council Urges Iran to Halt Atom Activity, in: The New York Times, 30.03.2006, A6.

Hoge, Warren 2006c: U.S. Envoy to Expose 4 Sudanese In U.N. Debate About Darfur, in: The New York Times, 18.04.2006, A12.

Holslag, Jonathan 2008: China's Diplomatic Manoeuvring on the Question of Darfur, in: Journal of Contemporary China 17: 54, 71–84.

Holslag, Jonathan 2009: China's true intentions in Congo.

Holslag, Jonathan/Gerraerts, Gustaaf/Gorus, Jan/Smis, Stefaan 2007: China's resources and energy policy in Sub-Saharan Africa. Report for the Development Committee of the European Parliament, Brussels.

Holzinger, Katharina 2001: Verhandeln statt Argumentieren oder Verhandeln durch Argumentieren? Eine empirische Analyse auf der Basis der Sprechakttheorie, in: Politische Vierteljahresschrift 42: 3, 414–446.

Hoskins, Eric 1997: The Humanitarian Impacts of Ecomonic Sanctions and War in Iraq, in: Weiss, Thomas G./Cortright, David/Lopez, George A./Minear, Larry (eds.): Political gain and civilian pain. Humanitarian impacts of economic sanctions, Lanham, MD, New York, NY, Boulder, CO, Oxford, 91–147.

Hosli, Madeleine O./Moody, Rebecca/O'Donovan, Bryan/Kaniovski, Serguei/Little, Anna C. H. 2011: Squaring the circle? Collective and distributive effects of United Nations Security Council reform, in: The Review of International Organizations 6: 2, 163–187.

Hovell, Devika 2016: The power of process. The value of due process in security council sanctions decision-making, Oxford, New York.

Huang, Chin-Hao 2012: "Bridging the gap": Analysis of China's export controls against international standards.

Hufbauer, Gary C. 2007: Economic sanctions reconsidered, Washington, DC.

Huliaras, Asteris 2006: Evangelists, Oil Companies, and Terrorists: The Bush Administration's Policy towards Sudan, in: Orbis 50: 4, 709–724.

Human Rights First 2008: Investing in Tragedy. China's Money, Arms, and Politics in Sudan, New York, NY, Washington, DC.

Human Rights Watch 2006: U.N.: Leaked Names Highlight Sudan's Failure to Protect. Strong U.N. Force, Sanctions Needed to Combat Continuing Attacks in Darfur.

Hurd, Ian 2007: After anarchy. Legitimacy and power in the United Nations Security Council, Princeton, NJ.

Huth, Paul K./Croco, Sarah E./Appel, Benjamin J. 2013: Bringing Law to the Table: Legal Claims, Focal Points, and the Settlement of Territorial Disputes Since 1945, in: American Journal of Political Science 57: 1, 90–103.

Ibrahim, Youssef M. 1990: Confrontation in the Gulf: Arafat's Support of Iraq Creates Rift in P.L.O., in: The New York Times, 14.08.1990, A9.

Integrated Regional Information Networks 2010: DRC: Who's who among armed groups in the east, in: http://www.irinnews.org/report/89494/drc-who-s-who-among-armed-groups-in-the-east.

International Atomic Energy Agency 2002: IAEA Safeguards: Stemming the Spread of Nuclear Weapons, in: https://www.iaea.org/sites/default/files/S1_Safeguards.pdf.

International Crisis Group 2003: Sudan's Other Wars, Khartoum, Brussels.

International Crisis Group 2004: Darfur Rising: Sudan's New Crisis, Nairobi/Brussels.

International Crisis Group 2009: Congo: A Comprehensive Strategy to Disarm the FDLR.

Japan Economic Newswire 2006a: Text of Original Draft Sanctions Resolution on Iran, New York, NY, 26.10.2006.

Japan Economic Newswire 2006b: 6 Powers not yet Agreed on Draft U.N. Sanctions Resolution on Iran, New York, NY, 22.12.2006.

Joerges, Christian 2006: 'Deliberative Political Processes' Revisited. What Have we Learnt About the Legitimacy of Supranational Decision-Making, in: Journal of Common Market Studies 44: 4, 779–802.

Johnson, Tana/Urpelainen, Johannes 2014: International Bureaucrats and the Formation of Intergovernmental Organizations. Institutional Design Discretion Sweetens the Pot, in: International Organization 68: 01, 177–209.

Johnstone, Ian 1994: Aftermath of the Gulf War: An Assessment of UN Action, Boulder, CO, London.

Kahler, Miles 1998: Rationality in International Relations, in: International Organization 52: 4, 919–941.

Kanetake, Machiko 2008: Enhancing Community Accountability of the Security Council through Pluralistic Structure: The Case of the 1267 Committee, in: Bogdandy, Armin von/Wolfrum, Rüdiger/Philipp, Christiane (eds.): Max Planck Yearbook of United Nations Law, Leiden, Biggleswade, 113–175.

Kaul, Hans-Peter 1996: Die Sanktionsausschüsse des Sicherheitsrats, in: Vereinte Nationen 44: 3, 96–103.

Keller, Helen/Fischer, Andreas 2009: The UN Anti-terror Sanctions Regime under Pressure, in: Human Rights Law Review 9: 2, 257–266.

Keohane, Robert O. 1984: After Hegemony. Cooperation and Discord in the World Political Economy, Princeton, NJ.

Keohane, Robert O. 1989: Neoliberal lnstitutionalism: A Perspective on World Politics, in: Keohane, Robert O. (ed.): International Institutions and State Power. Essays in international relations theory, Boulder, CO, 1–20.

Keohane, Robert O./Martin, Lisa L. 2003: Institutional Theory as a Research Program, in: Elman, Colin/Elman, Miriam F. (eds.): Progress in International Relations Theory. Appraising the Field, Cambridge, MA, 71–107.

Kerler, Michael 2010: Gutes Regieren in internationalen Organisationen, Baden-Baden, Bamberg.

Kerr, Paul K. 2012: Iran's Nuclear Program: Status, Washington, DC.

Kerr, Paul K. 2014: Iran's Nuclear Program: Tehran's Compliance with International Obligations, Washington, DC.

Khalizad, Zalmay 2007a: UN/Sudan Sanctions: Qatar Calls for Sanctions on Rebels: 07USUNNEWYORK1004_a, 12.11.2007.

Khalizad, Zalmay 2007b: UN/Sudan Sanctions: China, Russia Indonesia reject Strengthening Arms Embargo, Qatar Seeks Rebel Sanctions: 07USUNNEWYORK1058_a, 21.11.2007.

Khalizad, Zalmay 2007c: UN/Sudan Sanctions: Security Council Members Comment on Panel's Recommendations on Sanctions: 07USUNNEWYORK1191_a, 20.12.2007.

Khalizad, Zalmay 2008a: UN/1267 Sanctions: Belgians Request U.S. Reconsider Case to Delist Sayadi and Vinck (Diplomatic Cable): 08USUNNEWYORK209_a, 06.03.2008.

Khalizad, Zalmay 2008b: UN/Sudan Sanctions: French Reaction to USG-Proposed Designations: 08USUNNEWYORK486_a, 03.06.2008.

Kiewiet, D. R./McCubbins, Mathew D. 1993: The Logic of Delegation. Congressional Parties and the Appropriations Process, Chicago, IL.

King, Gary/Keohane, Robert O./Verba, Sidney 1994: Designing social inquiry. Scientific inference in qualitative research, Princeton, NJ.

Kingsbury, Benedict/Krisch, Nico/Stewart, Richard B. 2005: The Emergence of Global Administrative Law, in: Law and Contemporary Problems 68: 3&4, 15–62.

Kleine-Ahlbrandt, Stephanie/Small, Andrew 2008: China's New Dictatorship Diplomacy: Is Beijing Parting with Pariahs?, in: Foreign Affairs 87: 1, 38–56.

Koch, Martin 2009: Autonomization of IGOs, in: International Political Sociology 3: 4, 431–448.

Koch, Martin 2015: World Organizations – (Re-)Conceptualizing International Organizations, in: World Political Science 11: 1.

Koremenos, Barbara 2016: The continent of international law. Explaining agreement design, Cambridge, United Kingdom.

Koremenos, Barbara/Lipson, Charles/Snidal, Duncan 2001: The Rational Design of International Institutions, in: International Organization 55: 4, 761–799.

Koskenniemi, Martti 1991: Le Comité des sanctions créé par la Résolution 661 (1990) du Conseil de Sécurité, in: Annuaire français de droit international 37, 119–137.

Kramer, Hilde H./Yetiv, Steve A. 2007: The UN Security Council's Response to Terrorism: Before and After September 11, 2001, in: Political Science Quarterly 122: 3, 409–432.

Krasner, Stephen D. (ed.) 1983: International regimes, Ithaca, NY.

Krasno, Jean E./Sutterlin, James S. 2003: The United Nations and Iraq. Defanging the viper, Westport, CT.

Kratochwil, Friedrich/Ruggie, John G. 1986: International Organization: A State of the Art on an Art of the State, in: International Organization 40: 4, 753–775.

Krisch, Nico 2004: The Rise and Fall of Collective Security: Terrorism, US Hegemony, and the Plight of the Security Council, in: Walter, Christian/Vöneky, Silja/Röben, Volker/Schorkopf, Frank (eds.): Terrorism as a challenge for national and international law: security versus liberty?, Berlin, 879–907.

Krisch, Nico 2006: Introduction: Global Governance and Global Administrative Law in the International Legal Order, in: European Journal of International Law 17: 1, 1–13.

Krisch, Nico 2008: The Security Council and Great Powers, in: Lowe, Alan V./Roberts, Adam/Welsh, Jennifer/Zaum, Dominik (eds.): The United Nations Security Council and War. The Evolution of Thought and Practice since 1945, Oxford, New York, 133–153.

Kuwait News Agency 2010: Six-party talks on Iran minus Russia examine weaker text at Chinese Mission, 20.04.2010.

Kuziemko, Ilyana/Werker, Eric 2006: How Much Is a Seat on the Security Council Worth? Foreign Aid and Bribery at the United Nations, in: Journal of Political Economy 114: 5, 905–930.

La Franiere, Sharon 2003: U.S. Adds Chechen Groups to Terrorist List, in: The Washington Post, 01.03.2003, A16.

Lacey, Marc 2004: U.N. Council, in Nairobi, Again Warns Sudan, in: The New York Times, 19.11.2004, A7.

Lanz, David 2011: Why Darfur? The Responsibility to Protect as a Rallying Cry for Transnational Advocacy Groups, in: Global Responsibility to Protect 3: 2, 223–247.

Large, Daniel 2008: China & the Contradictions of 'Non-interference' in Sudan, in: Review of African Political Economy 35: 115, 93–106.

Lederer, Edith M. 2002: Swedish Legal Expert urges U.N. to Protect Rights of those linked to al-Qaida, United Nations, 12.02.2002.

Lederer, Edith M. 2004a: U.S. calls for U.N. sanctions on Arab militias in western Sudan blamed for humanitarian crisis, United Nations, 30.06.2004.

Lederer, Edith M. 2004b: U.S. threatens sanctions against Sudan if it doesn't quickly rein in militias in western Darfur, United Nations, 22.07.2004.

Lederer, Edith M. 2004c: Security Council heads to Nairobi for rare meeting in field to promote peace in Sudan, United Nations, 16.11.2004.

Lederer, Edith M. 2005a: Security Council to extend U.N. political mission in Sudan for a crimes, United Nations, 09.03.2005.

Lederer, Edith M. 2005b: Deadlocked council under mounting pressure to adopt new Sudan resolution authorizing force, sanctions and prosecutions, United Nations, 18.03.2005.

Lederer, Edith M. 2005c: U.S. circulates three Sudan resolutions on peacekeepers, sanctions and punishment for atrocities, United Nations, 23.03.2005.

Lederer, Edith M. 2005d: Security Council Votes Unanimously to Keep Arms Embargo in Congo, United Nations, 29.07.2005.

Lederer, Edith M. 2005e: U.N. Security Council Slaps Travel Ban and Arms Embargo on Rwandan Hutu Rebel Leaders in Eastern Congo, United Nations, 21.12.2005.

Lederer, Edith M. 2006a: U.N. panel recommends sanctions against individuals from Sudanese government and rebel groups blocking peace in Darfur, United Nations, 11.01.2006.

Lederer, Edith M. 2006b: Security Council deeply divided over sanctions against Sudanese, United Nations, 28.02.2006.

Lederer, Edith M. 2006c: Britain and U.S. calls for sanctions against four Sudanese over Darfur, United Nations, 12.04.2006.

Lederer, Edith M. 2006d: Blog: Behind the Scenes at the U.N., United Nations, 15.04.2006.

Lederer, Edith M. 2006e: In blow to Britain and U.S., Russia and China will oppose sanctions against Sudanese blocking peace in Darfur, United Nations, 17.04.2006.

Lederer, Edith M. 2006f: Russia and China likely to oppose sanctions against Sudanese blocking peace in Darfur, U.N. diplomat says, United Nations, 17.04.2006.

Lederer, Edith M. 2006g: Russia locked in disagreement with U.S., Europe over sanctions against Iran, United Nations, 16.11.2006.

Lederer, Edith M. 2006h: Europeans circulate revised U.N. resolution narrowing sanctions on Iran, United Nations, 08.12.2006.

Lederer, Edith M. 2006i: Six key countries make progress on Iran sanctions resolution, United Nations, 14.12.2006.

Lederer, Edith M. 2006j: Security Council agrees to sanctions on Iran over its nuclear program, United Nations, 24.12.2006.

Lederer, Edith M. 2007a: Major powers move closer to agreement on new sanctions against Iran, United Nations, 13.03.2007.

Lederer, Edith M. 2007b: 6 World Powers Agree to New U.N. Sanctions Against Iran, United Nations, 15.03.2007.

Lederer, Edith M. 2007c: Britain and U.S. propose new U.N. sanctions for Sudan, but face opposition on Security Council, United Nations, 18.04.2007.

Lederer, Edith M. 2007d: U.S. demand for new U.N. sanctions against Sudan faces uphill struggle, United Nations, 31.05.2007.

Lederer, Edith M. 2007e: China wants sanctions and new diplomatic effort on Iran, United Nations, 13.12.2007.

Lederer, Edith M. 2010a: 6 powers meet again on Iran sanctions, United Nations, 15.04.2010.

Lederer, Edith M. 2010b: China wants changes to Iran sanctions proposal, United Nations, 21.04.2010.

Lederer, Edith M. 2010c: US gets China, Russia on board for Iran sanctions, United Nations, 19.05.2010.

Lederer, Edith M. 2011: UN separates al-Qaida and Taliban sanctions, United Nations, 17.06.2011.

Lee, Matthew R. 2006: At the UN, Mysterious Deletion from Iran Sanctions List of Aerospace Industries Organization Goes Unexplained, United Nations, 23.12.2006.

Lee, Pak K./Chan, Gerald/Chan, Lai-Ha 2012: China in Darfur: humanitarian rule-maker or rule-taker?, in: Review of International Studies 38: 02, 423–444.

Leopold, Evelyn 2005a: Annan Calls Emergency Sudan Session of UN Council, United Nations, 07.03.2005.

Leopold, Evelyn 2005b: UN Council Votes for Sanctions on Darfur Offenders, United Nations, 30.03.2005.

Leopold, Evelyn 2005c: UN Council Plans to Extend Congo Arms Ban on Rebels, United Nations, 18.04.2005.

Leopold, Evelyn 2005d: UN delays Sudan sanctions by three months, United Nations, 07.07.2005.

Levy, Jack 2008: Case Studies: Types, Designs, and Logics of Inference, in: Conflict Management and Peace Science 25: 1, 1–18.

Levy, Jack 2010: Counterfactuals and Case Studies, in: Box-Steffensmeier, Janet M./Brady, Henry E./Collier, David (eds.): The Oxford handbook of political methodology, Oxford, New York, 627–644.

Lewis, Mike 2009: Skirting the law. Sudan's post-CPA arms flows, Geneva.

Lewis, Paul 1991: U.N. Survey Calls Iraq's War Damage Near-apocalyptic, in: The New York Times, 22.03.1991, A6.

Lieberman, Evan S. 2005: Nested Analysis as a Mixed-Method Strategy for Comparative Research, in: American Political Science Review 99: 03, 435–452; 2005.

Lindenberg, Siegwart 1990: Homo Socio-oeconomicus: The Emergence of a General Model of Man in the Social Sciences, in: Journal of Institutional and Theoretical Economics (JITE) / Zeitschrift für die gesamte Staatswissenschaft 146: 4, 727–748.

Linton, Leyla 2005: Draft U.N. resolution would send peacekeepers to Sudan, United Nations, 14.02.2005.

Lipson, Michael 2006: Transgovernmental networks and nonproliferation, in: International Journal 61: 1, 179–198.

Lipson, Michael 2007: A 'Garbage Can Model' of UN Peacekeeping, in: Global Governance 13: 1, 79–97.

Løj, Ellen Margrethe 2007: Denmarks Membership of the UN Security Council: What came out?, in: Hvidt, Nanna/Mouritzen, Hans (eds.): Danish Foreign Policy Yearbook 2007, Copenhagen, 31–50.

Luck, Edward C. 2007: The UN Security Council. Practice and Promise, London.

Luhmann, Niklas 1983: Legitimation durch Verfahren, Frankfurt a.M.

Lynch, Colum 2002: U.S. Seeks to Take 6 Names Off U.N. Sanctions List. Administration Was Criticized for Offering Little Proof That Individuals, Groups Aided Al Qaeda, in: The Washington Post, 22.08.2002, A13.

Lynch, Colum 2004a: U.S. Seeks U.N. Pressure on Sudan, in: The Washington Post, 23.07.2004, A25.

Lynch, Colum 2004b: U.S. Urges Aid to Spur Peace in Sudan, in: The Washington Post, 15.11.2004, A21.

Lynch, Colum 2006a: Sanctions Against Sudanese Officials Sought Over Darfur, in: The Washington Post, 23.02.2006, A20.

Lynch, Colum 2006b: U.S. Seeks U.N. Sanctions Against Four in Sudan, in: The Washington Post, 19.04.2006, A11.

Lynch, Colum 2006c: Sanctions on Iran Approved by U.N.; Strongest Measures Stripped From Final Resolution, in: The Washington Post, 24.12.2006, A1.

Lynch, Colum 2007: Sudan Backs Away From U.N. Plan. Bashir Reneging on November Agreement: Sanctions, 'No-Fly' Zone Possible, in: The Washington Post, 14.03.2007, A12.

Lynch, Colum 2013: Hidden Report Reveals How Iran Dodges Nuclear Watchdogs, in: Foreign Policy, 18.06.2013.

Lynch, Colum/Lee, Christopher 2004: U.N. Adopts Resolution on Sudan. Nation May Face Sanctions If Atrocities Persist in Darfur, in: The Washington Post, 31.07.2004, A15.

M2 Presswire 2005: UN: Security Council maintains sanctions on Democratic Republic of Congo in light of failure by parties to comply with its demands; Resolution 1616 (2005) Reiterates Members' serious concern over armed groups, condemns illicit weapons flows, United Nations, 29.07.2005.

MacAskill, Ewen 2004: UN gives backing to watered-down resolution on crisis in Sudan, in: The Guardian, 31.07.2004, 13.

MacAskill, Ewen 2005: Britain backs UN sanctions after losing patience in Sudan crisis, in: The Guardian, 08.03.2005, A2.

MacAskill, Ewen 2006: Sudan leaders face UN sanctions, in: The Guardian, 01.03.2006, 18.

MacFarquhar, Neil/Landler, Mark/Sanger, David E. 2010: U.N. Approves New Sanctions to Deter Iran, in: The New York Times, 10.06.2010, A1.

Mack, Andrew/Khan, Asif 2000: The Efficacy of UN Sanctions, in: Security Dialogue 31: 3, 279–292.

MacKinnon, Michael G. 2010: The United Nations Security Council, in: Black, David R./Williams, Paul D. (eds.): The international politics of mass atrocities. The case of Darfur, London, New York, NY, 71–99.

Mahoney, James/Goertz, Gary 2006: A Tale of Two Cultures: Contrasting Quantitative and Qualitative Research, in: Political Analysis 14: 3, 227–249.

Majone, Giandomenico 2001a: Nonmajoritarian Institutions and the Limits of Democratic Governance: A Political Transaction-Cost Approach, in: Journal of Institutional and Theoretical Economics (JITE) / Zeitschrift für die gesamte Staatswissenschaft 157: 1, 57–78.

Majone, Giandomenico 2001b: Two Logics of Delegation: Agency and Fiduciary Relations in EU Governance, in: European Union Politics 2: 1, 103–122.

Major, Claudia 2008: EU-UN cooperation in military crisis management. the experience of EUFOR RD Congo in 2006, Paris.

Malone, David M. 2006: The international struggle over Iraq. Politics in the UN Security Council, 1980 - 2005, Oxford.

Malone, David M. 2008: Security Council, in: Weiss, Thomas G./Daws, Sam (eds.): The Oxford Handbook on the United Nations, Oxford, 117–135.

Malone, David M. 2012: An Evolving UN Security Council, in: Jones, Bruce D./Forman, Shepard/Gowan, Richard (eds.): Cooperating for Peace and Security. Evolving Institutions and Arrangements in a Context of Changing U.S. Security Policy,

Cambridge, MA, New York, NY, Melbourne, Madrid, Cape Town, Singapore, Sao Paulo, Delhi, Mexico City, 59–79.

Malone, David M./Chitalkar, Poorvi 2016: Iraq, in: Einsiedel, Sebastian v./Malone, David M./Stagno Ugarte, Bruno (eds.): The UN security council in the twenty-first century, Boulder, Colorado, 551–568.

Manrique Gil, Manuel 2012: The M23 and eastern D.R. Congo: An intractable problem or an opportunity to engage?, Brussels, Strasbourg.

Manusama, Kenneth 2006: The United Nations Security Council in the post-cold war era, Leiden, Boston, MA.

March, James G./Olsen, Johan P. 1989: Rediscovering Institutions: The Organizational Basis of Politics, New York, NY.

March, James G./Olsen, Johan P. 1998: The Institutional Dynamics of International Political Orders, in: International Organization 52: 4, 943–969.

Margulies, Peter 2014: Aftermath of an Unwise Decision: The U.N. Terrorist Sanctions Regime After Kadi II, in: Amsterdam Law Forum; Vol 6, No 2 (2014): Spring Issue.

Marquis, Christopher/Lacey, Marc 2004: Powell and Annan See Hints of Disaster in Sudan, in: The New York Times, 30.06.2004, A1.

Martin, Lisa L./Simmons, Beth A. 2013: International Organizations and Institutions, in: Simmons, Beth A./Risse-Kappen, Thomas/Carlsnaes, Walter (eds.): Handbook of International Relations, London, Thousand Oaks, CA, 326–351.

Marx, Johannes 2010: Is there a hard core of IR? Eine wissenschaftliche Betrachtung der Theorien der Internationalen Beziehungen, in: Zeitschrift für Internationale Beziehungen 17: 1, 39–73.

Mayntz, Renate 1988: Funktionelle Teilsysteme in der Theorie Sozialer Differenzierung, in: Mayntz, Renate (ed.): Differenzierung und Verselbständigung. Zur Entwicklung gesellschaftlicher Teilsysteme, Frankfurt/Main, 11–44.

McCubbins, Mathew D./Schwartz, Thomas 1984: Congressional Oversight Overlooked: Police Patrols versus Fire Alarms, in: American Journal of Political Science 28: 1, 165–179.

Meerpohl, Thomas 2008: Individualsanktionen des Sicherheitsrates der Vereinten Nationen. Das Sanktionsregime gegen die Taliban und Al-Qaida vor dem Hintergrund des Rechts der VN und der Menschenrechte, Munich.

Mehta, Judith/Starmer, Chris/Sugden, Robert 1994: The Nature of Salience: An Experimental Investigation of Pure Coordination Games, in: The American Economic Review 84: 3, 658–673.

Michael, Gabriel J. 2015a: Here's why Julian Assange is picking a fight with international relations professors, in: http://www.washingtonpost.com/blogs/monkey-cage/wp/2015/08/03/heres-why-julian-assange-is-picking-a-fight-with-international-relationships-professors/; 07.8.2015.

Michael, Gabriel J. 2015b: Who's Afraid of WikiLeaks? Missed Opportunities in Political Science Research, in: Review of Policy Research 32: 2, 175–199.

Michaelsen, Christopher 2010: The Security Council's Al Qaeda and Taliban Sanctions Regime: "Essential Tool" or Increasing Liability for the UN's Counterterrorism Efforts?, in: Studies in Conflict & Terrorism 33: 5, 448–463.

Milgrom, Paul/Roberts, John 1990: Bargaining Costs, Influence Costs, and the Organization of Economic Activity, in: Alt, James E. (ed.): Perspectives on positive political economy, Cambridge, 57–89.

Miller, Elin 2003: The Use of Targeted Sanctions in the Fight Against International Terrorism—What About Human Rights?, in: Proceedings of the Annual Meeting (American Society of International Law) 97, 46–51.

Mimler, Manfred 2013: Terrorismusbekämpfung bei den Vereinten Nationen. Der Al-Qaida-Sanktionsausschuss unter deutschem Vorsitz 2011/2012, in: Vereinte Nationen 61: 3, 120–125.

Minear, Larry/Clark, Jeffrey/Cohen, Roberta/Gallagher, Dennis/Guest, Iain/Weiss, Thomas G. 1994: Humanitarian Action in the Former Yugoslavia: The U.N.'s Role, 1991-1993, Providence, RI.

Missile Technology Control Regime 2015: The Missile Technology Control Regime, in: http://www.mtcr.info/english/index.html; 17.4.2015.

Monusco 2015: The active and illegal foreign armed groups operating on the soil of the DR Congo include the following:, in: http://monusco.unmissions.org/Default.aspx?tabid=10727.

Moravcsik, Andrew 2010: Active Citation: A Precondition for Replicable Qualitative Research, in: PS: Political Science & Politics 43: 1, 29–35.

Moravcsik, Andrew M. 1998: The choice for Europe. Social purpose and state power from Messina to Maastricht, Ithaca, NY.

Mousavian, Seyyed H. 2012: The Iranian nuclear crisis. A memoir, Washington, DC.

Mueller, John/Mueller, Karl 1999: Sanctions of Mass Destruction, in: Foreign Affairs 78: 3, 43–53.

Murphy, Deborah 2007: Narrating Darfur: Darfur in the U.S. Press, March-September 2004, in: Waal, Alex de (ed.): War in Darfur and the search for peace, Cambridge, MA, 314–336.

Nathan, Laurie 2007: The Making and Unmaking of the Darfur Peace Agreement, in: Waal, Alex de (ed.): War in Darfur and the search for peace, Cambridge, MA, 245–266.

Ness, Gayl D./Brechin, Steven R. 1988: Bridging the gap: international organizations as organizations, in: International Organization 42: 2, 245–273.

New Zealand Ministry of Foreign Affairs and Trade 1995: New Zealand in the Security Council: 1993-1994, Wellington.

New Zealand Ministry of Foreign Affairs and Trade 2012: United Nations Handbook 2012-2013. An Annual Guide for those Working with and Within the United Nations.

Ngolet, François 2011: Crisis in the Congo. The rise and fall of Laurent Kabila, Basingstoke.

Nielson, Daniel L./Tierney, Michael J. 2003: Delegation to International Organizations: Agency Theory and World Bank Environmental Reform, in: International Organization 57: 2, 241–276.

Nikitin, Mary B./Kerr, Paul K./Hildreth, Steven A. 2012: Proliferation Control Regimes: Background and Status, Washington, DC.

Nordland, Rod 2011: Afghans Want Sanctions Lifted on Taliban Figures, in: The New York Times, 05.06.2011, A16.

Nowak, David/Lederer, Edith M. 2010: Russia: Iran's noncooperation 'very alarming', Moscow, 20.02.2010.

Nuclear Suppliers Group 2015a: The Nuclear Suppliers Group: Its Origins, Role and Activities, Vienna.

Nuclear Suppliers Group 2015b: Nuclear Suppliers Group, in: http://www.nuclearsuppliersgroup.org/en/; 17.4.2015.

O'Neill, Barry 1996: Power and Satisfaction in the United Nations Security Council, in: The Journal of Conflict Resolution 40: 2, 219–237.

Odell, John 2013: Negotiation and Bargaining, in: Simmons, Beth A./Risse-Kappen, Thomas/Carlsnaes, Walter (eds.): Handbook of International Relations, London, Thousand Oaks, CA, 379–400.

Oertel, Janka 2014: China and the United Nations. Chinese UN Policy in the Areas of Peace and Development in the Era of Hu Jintao, Baden-Baden.

Oette, Lutz 2002: A Decade of Sanctions against Iraq: Never Again! The End of Unlimited Sanctions in the Recent Practice of the UN Security Council, in: European Journal of International Law 13: 1, 93–103.

Olson, Alexandra 2007: Major powers struggle to agree on new sanctions against Iran, United Nations, 09.03.2007.

Opp, Karl-Dieter 1999: Contending Conceptions of the Theory of Rational Action, in: Journal of Theoretical Politics 11: 2, 171–202.

Panel of Experts Iran 2011: Panel of Experts Established Pursuant to Resolution 1929 (2010). Final Report, Acton, ACT, Australia.

Pape, Robert A. 1997: Why Economic Sanctions Do Not Work, in: International Security 22: 1, 90–136.

Paulus, Andreas 2012: Article 29, in: Simma, Bruno/Khan, Daniel-Erasmus/Mosler, Hermann/Nolte, Georg/Paulus, Andreas/Wessendorf, Nikolai (eds.): The Charter of the United Nations: A Commentary, Oxford, 983–1027.

Penketh, Anne 2006: Britain pushes for travel ban on leaders to curb killing in Darfur, in: The Independent, 01.03.2006, 22.

Peters, Anne 2012: Article 24, in: Simma, Bruno/Khan, Daniel-Erasmus/Mosler, Hermann/Nolte, Georg/Paulus, Andreas/Wessendorf, Nikolai (eds.): The Charter of the United Nations: A Commentary, Oxford, 761–786.

Plocher, Isabel 2011: Good Governance durch Accountability?, Berlin, Bamberg.

Pollack, Mark A. 1997: Delegation, agency, and agenda setting in the European Community, in: International Organization 51: 1, 99–134.

Pollack, Mark A. 2003: The Engines of European Integration. Delegation, Agency, and Agenda Setting in the EU, Oxford.

Portela, Clara 2010: European Union sanctions and foreign policy. When and why do they work?, London.

Prendergast, John 2007: The Answer to Darfur. How to Resolve the World's Hottest War, Washington, DC.

Prendergast, John/Sullivan, David 2008: Irresolution. The U.N. Security Council on Darfur, Washington, DC.

Price, Richard 1998: Reversing the Gun Sights. Transnational Civil Society Targets Land Mines, in: International Organization 52: 3, 613–644.

Prost, Kimberly 2011: Approach to and Standard for Analysis, Observations, Principal Arguments and Recommendation, in: http://www.un.org/en/sc/ombudsperson/approach.shtml; 07.12.2013.

Prost, Kimberly 2012a: Fair Process and the Security Council: A Case for the Office of the Ombudsperson, in: Salinas de Frías, Ana/Samuel, Katja/White, Nigel D. (eds.): Counter-terrorism. International law and practice, Oxford, New York, NY, 409–423.

Prost, Kimberly 2012b: The Office of the Ombudsperson. A Case for Fair Process, in: http://regnet.anu.edu.au/research/publications/2788/working-paper-no-43-office-ombudsperson-case-fair-process.

Prost, Kimberly/Wilmshurst, Elizabeth 2013: UN Sanctions, Human Rights and the Ombudsperson, London.

Provost, Rene 1992: Starvation as a Weapon: Legal Implications of the United Nations Food Blockade Against Iraq and Kuwait, in: Columbia Journal of Transnational Law 30, 577–639.

Prunier, Gérard 2009: From genocide to continental war. The "Congolese" conflict and the crisis of contemporary Africa, London.

Raustiala, Kal 1997: States, NGOs, and International Environmental Institutions, in: International Studies Quarterly 41: 4, 719–740.

Rawls, John 1971: A Theory of Justice, Cambridge, MA.

Reinalda, Bob 2013: International Organizations as a field of research since 1910, in: Reinalda, Bob (ed.): Routledge handbook of international organization, Milton Park, Abingdon, Oxon, 1–23.

Reisman, Micheal W. 1993: The Constitutional Crisis in the United Nations, in: American Journal of International Law 87, 83–100.

Reisman, Micheal W./Stevick, Douglas L. 1998: The Applicability of International Law Standards to United Nations Economic Sanctions Programmes, in: European Journal of International Law 9: 1, 98–141.

Reuters 2003: U.S. moves to blacklist Chechen guerilla groups, in: The Ottawa Citizen, 21.02.2003, D17.

Reuters 2005: U.S. Resolution Calls for U.N. Peacekeeping Mission in Sudan, in: The Washington Post, 15.02.2005, A11.

Reyntjens, Filip 2010: The great African war. Congo and regional geopolitics, 1996 - 2006, Cambridge.

Rice, Susan 2009a: Sudan Sanctions Commitee Considers Expert Panel Setbacks: 09USUNNEWYORK212_a, 04.03.2009.

Rice, Susan 2009b: Sudan/Sanctions: Expert Brief on Violations and Poor Cooperation with UN Agencies: 09USUNNEWYORK695_a, 16.07.2009.

Rice, Susan 2009c: Saving the Al-Qaeda/Taliban Sanctions Regime: 09USUNNEWYORK818_a, 04.09.2009.

Riechmann, Deb 2007: Bush announces new sanctions against Sudan for its role in Darfur, Washington, DC, 30.05.2007.

Riechmann, Deb 2011: UN could split Afghan Taliban, al-Qaida black list, Kabul, 07.06.2011.

Right Vision News 2011: USA: UNSC report alleged fresh violations of sanctions regime on Iran, United Nations, 26.06.2011.

Ringe, Nils 2005: Policy Preference Formation in Legislative Politics: Structures, Actors, and Focal Points, in: American Journal of Political Science 49: 4, 731–745.

Risse, Thomas 2000: "Let's Argue!": Communicative Action in World Politics, in: International Organization 54: 1, 1–39.

Rittberger, Volker/Zangl, Bernhard/Kruck, Andreas 2012: International Organization, Basingstoke.

Ritter, Karl 2002: Sweden says U.S. has rejected request to remove Swedish citizens from sanctions list, Stockholm, 01.02.2002.

Roberts, Adam/Zaum, Dominik 2009: Selective Security. War and the United Nations Security Council since 1945, Hoboken.

Rogoff, Kenneth 1985: The Optimal Degree of Commitment to an Intermediate Monetary Target, in: The Quarterly Journal of Economics 100: 4, 1169–1189.

Romaniuk, Peter 2010: Multilateral counter-terrorism. The global politics of cooperation and contestation, Milton Park, Abingdon, Oxon England, New York.

Ronen, Yaël 2010: The Iran nuclear issue, Oxford, Portland, OR.

Rosand, Eric 2004: The Security Council's Efforts to Monitor the Implementation of Al Qaeda/Taliban Sanctions, in: The American Journal of International Law 98: 4, 745–763.

Rosand, Eric 2010: The UN response to the evolving threat of global terrorism: institutional reform, rivalry, or renewal?, in: Danchin, Peter G./Fischer, Horst (eds.): United Nations reform and the new collective security, Cambridge [U.K.], New York, NY.

Rose, Euclid A. 2005: From a Punitive to a Bargaining Model of Sanctions: Lessons from Iraq, in: International Studies Quarterly 49: 3, 459–479.

Rosen, Jane 1991: UN to ease embargo and let food into Iraq: Special envoy warns of 'near-apocalyptic conditions', in: The Guardian, 23.03.1991.

Rowe, Trevor 1992a: Aid-dependent Sudan to Sell Beef to Iraq, in: The Washington Post, 06.10.1992.

Rowe, Trevor 1992b: Famine-plagued Sudan plans beef sale to Iraq, in: The Ottawa Citizen, 06.10.1992, B5.

Ruffing, Eva 2011: Europäische Wertpapierregulierung zwischen Input- und Output-Legitimität, Baden-Baden, Bamberg.

Rupiya, Martin 2005: UN Panel of Experts. A peace-building tool?

Rwanda Ministry of Foreign Affairs and Cooperation 2012: Rwanda's Response to the Allegations Contained in the Addendum to the UN Group of Experts Interim Report, Kigali.

Sanger, David E./Landler, Mark 2010: Major Powers Have Deal on Sanctions for Iran, in: The New York Times, 20.05.2010.

Sarooshi, Dan 1999: The United Nations and the development of collective security. The delegation by the UN Security Council of its chapter VII powers, Oxford.

Sartori, Giovanni 1987: The Theory of Democracy Revisited, Chatham, NJ.

Sauer, Tom 2009: The Unbearable Lightness of UN Security Council Resolutions: The Case of Iran, in: Wouters, Jan/Drieskens, Edith/Biscop, Sven (eds.): Belgium in the UN Security Council. Reflections on the 2007-2008 membership, Antwerpen, 115–126.

Schabas, William A. 2010: The International Criminal Court, in: Black, David R./Williams, Paul D. (eds.): The international politics of mass atrocities. The case of Darfur, London, New York, NY, 134–154.

Schaefer, Guenther F. 1996: Committees in the EC Policy Process: A First Step Towards Devel-oping a Conceptual Framework, in: Pedler, Robin H./Schaefer, Guenther F. (eds.): Shaping European Law and Policy. The Role of Committees and Comitology in the Political Process, Maastricht, 3–23.

Scharf, Michael P./Dorosin, Joshua L. 1993: Interpreting UN Sanctions: The Rulings and Role of the Yugoslavia Sanctions Committee, in: Brooklyn Journal of International Law 19: 1, 771–827.

Scharpf, Fritz W. 1997: Games Real Actors Play. Actor-centered Institutionalism In Policy Research, New York, NY.

Schelling, Thomas C. 1960: The Strategy of Conflict, Cambridge, MA.

Schimmelfennig, Frank 2001: The Community Trap: Liberal Norms, Rhetorical Action, and the Eastern Enlargement of the European Union, in: International Organization 55: 1, 47–80.

Schmemann, Serge 2002: A Nation Challanged: Sanctions and Fallout. Swedes Take Up the Cause of 3 on U.S. Terror List, in: The New York Times, 26.01.2002, A9.

Schmidt, Vivien A. 2013: Democracy and Legitimacy in the European Union Revisited. Input, Output and 'Throughput', in: Political Studies 61: 1, 2–22.

Schorlemer, Sabine von 2003: Human Rights: Substantive and Institutional Implications of the War Against Terrorism, in: European Journal of International Law 14: 2, 265–282.

Schweid, Barry 1993: Sudan Added to Terrorist List, Washington, DC, 18.08.1993.

Sciolino, Elaine 2006: Showdown at U.N.? Iran Seems Calm, in: The New York Times, 14.03.2006, A8.

SCR Forecast April 2006a: Democratic Republic of the Congo, New York, NY, 2006.

SCR Forecast April 2006b: Sudan/Darfur, New York, NY, 2006.

SCR Forecast April 2011: Sudan/Darfur, New York, NY, 2011.

SCR Forecast April 2012: Sudan/Darfur, New York, NY, 2012.

SCR Forecast August 2006: Iran, New York, NY, 2006.

SCR Forecast December 2006: Democratic Republic of the Congo, New York, NY, 2006.

SCR Forecast December 2007a: Iran, New York, NY, 2007.

SCR Forecast December 2007b: Sudan/Darfur, New York, NY, 2007.

SCR Forecast December 2011: Iran, New York, NY, 2011.

SCR Forecast December 2013: Iran, New York, NY, 2013.

SCR Forecast December 2014: Iran, New York, NY, 2014.

SCR Forecast February 2007: Iran, New York, NY, 2007.

SCR Forecast February 2011: Democratic Republic of the Congo, New York, NY, 2011.

SCR Forecast February 2013: Democratic Republic of the Congo, New York, NY, 2013.

SCR Forecast January 2008: Iran, New York, NY, 2008.

SCR Forecast January 2012: Sudan/Darfur, New York, NY, 2012.

SCR Forecast July 2006: Democratic Republic of the Congo, New York, NY, 2006.

SCR Forecast July 2012: Sudan/Darfur, New York, NY, 2012.

SCR Forecast July 2013a: Democratic Republic of the Congo, New York, NY, 2013.

SCR Forecast July 2013b: Iran, New York, NY, 2013.

SCR Forecast June 2006a: Democratic Republic of the Congo, New York, NY, 2006.

SCR Forecast June 2006b: Iran, New York, NY, 2006.

SCR Forecast June 2007: Iran, New York, NY, 2007.

SCR Forecast June 2011: SCR Forecast June. Counter-Terrorism: 1267 Committee, New York, NY, 31.05.2011.

SCR Forecast June 2012: Iran, New York, NY, 2012.

SCR Forecast June 2014: Iran, New York, NY, 2014.

SCR Forecast March 2006: Sudan/Darfur, New York, NY, 2006.

SCR Forecast March 2011: Iran, New York, NY, 2011.

SCR Forecast March 2013: Iran, New York, NY, 2013.

SCR Forecast March 2014: Democratic Republic of the Congo, New York, NY, 2014.

SCR Forecast March 2015: Iran, New York, NY, 2015.

SCR Forecast May 2006a: Iran, New York, NY, 2006.

SCR Forecast May 2006b: Sudan/Darfur, New York, NY, 2006.

SCR Forecast May 2007: Iran, New York, NY, 2007.

SCR Forecast May 2010: Democratic Republic of the Congo, New York, NY, 2010.

SCR Forecast November 2005a: Democratic Republic of the Congo, New York, NY, 2005.

SCR Forecast November 2005b: Sudan/Darfur, New York, NY, 2005.

SCR Forecast November 2006a: Democratic Republic of the Congo, New York, NY, 2006.

SCR Forecast November 2006b: Iran, New York, NY, 2006.

SCR Forecast November 2009: Democratic Republic of the Congo, New York, NY, 2009.

SCR Forecast November 2011: Democratic Republic of the Congo, New York, NY, 2011.

SCR Forecast November 2012: Democratic Republic of the Congo, New York, NY, 2012.

SCR Forecast October 2013: Democratic Republic of the Congo, New York, NY, 2013.

SCR Forecast September 2006: Democratic Republic of the Congo, New York, NY, 2006.

SCR Forecast September 2012: Iran, New York, NY, 2012.

SCR Forecast September 2013: Iran, New York, NY, 2013.

SCR Update Report 2005: Democratic Republic of the Congo, New York, NY, 2005.

SCR Update Report No.2 2008: Iran, New York, NY, 2008.

SCR Update Report No.3 2006: Sudan/Darfur, New York, NY, 13.01.2006.

SCR Update Report No.4 2006: Iran, New York, NY, 2006.

Seawright, J./Gerring, J. 2008: Case Selection Techniques in Case Study Research: A Menu of Qualitative and Quantitative Options, in: Political Research Quarterly 61: 2, 294–308.

Sebenius, James K. 1983: Negotiation arithmetic: adding and subtracting issues and parties, in: International Organization 37: 02, 281–316.

Sebenius, James K./Singh, Michael K. 2013: Is a Nuclear Deal with Iran Possible? An Analytical Framework for the Iran Nuclear Negotiations, in: International Security 37: 3, 52–91.

Secretary of State 2007a: UNSCR 1267: Updating Taliban Names on the Consolidated List: 07STATE36625_a, 22.03.2007.

Secretary of State 2007b: USG Questions on Sweden November 9 Notice on Bank Sepah: 07STATE159967_a, 26.11.2007.

Secretary of State 2008a: USG Questions on UAE January 31 Notice on Bank Sepah: 08STATE14956_a, 13.02.2008.

Secretary of State 2008b: DRC - Instruction Cable on FDLR Resolution for March 10 Consultations: 08STATE24749_a, 10.03.2008.

Secretary of State 2008c: USG Questions on China August 1 Notice on Bank Sepah: 08STATE85096_a, 07.08.2008.

Secretary of State 2008d: UN 1267: Requesting Assistance to Resolve Longstanding USG Holds on Libyan Terrorist Sanctions Requests: 08STATE97379_a, 11.09.2008.

Secretary of State 2008e: Response to Taiwan's Request for Identifier Information on Iranian UNSCR Designated Individuals: 08STATE127254_a, 03.12.2008.

Secretary of State 2009a: UNSC DRC Sanctions Committee - Designation of FDLR Leaders: 09STATE16194_a, 21.02.2009.

Secretary of State 2009b: UNSC DRC Sanctions Committee: Object to Focal Point Delisting Request: 09STATE113587_a, 03.11.2009.

Secretary of State 2009c: U.S. Posture on Iran's Nuclear Program and Next Steps: 09STATE120288_a, 21.11.2009.

Secretary of State 2010: Mobilizing Pressure to Persuade Iran's Engagement on its Nuclear Program: 10STATE9124_a, 29.01.2010.

Security Council Press Release 2006: Security Council Imposes Travel, Financial Sanctions on 4 Sudanese, Adopting Resolution 1672 (2006) by 12-0-3. 5423rd Meeting (PM), United Nations.

Security Council Report 2012a: Security Council Elections 2012, New York, NY.

Security Council Report 2012b: Council Activities on the Democratic Republic of the Congo, New York, NY, 20.11.2012.

Security Council Report 2013: UN Sanctions, New York, NY.

Security Council Report 2014: Security Council Elections 2014, New York, NY.

Security Council Report 2015: Chairs of Subsidiary Bodies and Pen-Holders for 2015, New York, NY.

Sievers, Loraine/Daws, Sam 2014: The Procedure of the UN Security Council, Oxford.

Simma, Bruno/Khan, Daniel-Erasmus/Mosler, Hermann/Nolte, Georg/Paulus, Andreas/Wessendorf, Nikolai (eds.) 2012: The Charter of the United Nations: A Commentary, Oxford.

Simons, Geoffrey L. 1996: The scourging of Iraq. Sanctions, law and natural justice, Basingstoke.

Singer, David J. 1987: Reconstructing the Correlates of War Dataset on Material Capablities of States, 1816-1985 (Version 4.0), in: International Interactions 14, 115–132.

Slaughter, Anne-Marie/Hale, Thomas N. 2011: Transgovernmental Networks, in: Bevir, Mark (ed.): The SAGE Handbook of Governance, London, 342–351.

Smith, Courtney B. 2006: Politics and process at the United Nations. The global dance, Boulder, CO.

Smith, David 2012: Rwanda joins UN security council despite damning Congo report, in: The Guardian, 18.10.2012.

Snidal, Duncan 1985: Coordination versus Prisoners' Dilemma: Implications for International Cooperation and Regimes, in: American Political Science Review 79: 4, 923–942.

Snidal, Duncan 2013: Rational Choice and International Relations, in: Simmons, Beth A./Risse-Kappen, Thomas/Carlsnaes, Walter (eds.): Handbook of International Relations, London, Thousand Oaks, CA, 85–111.

Soderlund, Walter C. 2012: Africa's deadliest conflict. Media coverage of the humanitarian disaster in the Congo and the United Nations response, 1997 - 2008, Waterloo, ON.

Spielmann, Peter J. 2012: UN Security Council Puts Sanctions on Congo Rebels, United Nations, 21.11.2012.

Sponeck, Hans-Christof 2000: Ending the Iraq Impasse, in: Global Dialogue 2: 3.

Sponeck, Hans-Christof 2002: Sanctions and Humanitarian Exemptions: A Practitioner's Commentary, in: European Journal of International Law 13: 1, 81–87.

Sponeck, Hans-Christof 2006: A different kind of war. The UN sanctions regime in Iraq, New York, NY.

States News Service 2005a: U.N. Security Council Urged to Act to Stop Darfur Atrocities, Washington, DC, 17.02.2005.

States News Service 2005b: United Nations sets sanctions on Darfur human-rights violators, Washington, DC, 30.03.2005.

States News Service 2005c: DR Congo: UN Helps Secure Release of Abducted Election Officials, New York, NY, 03.11.2005.

Stedjan, Scott/Thomas-Jensen, Colin 2010: The United States, in: Black, David R./Williams, Paul D. (eds.): The international politics of mass atrocities. The case of Darfur, London, New York, NY, 157–175.

Stein, Arthur A. 1982: Coordination and collaboration: regimes in an anarchic world, in: International Organization 36: 02, 299–324.

Stone, Randall W. 2011: Controlling institutions. International organizations and the global economy, Cambridge.

Stone Sweet, Alec/Sandholtz, Wayne 2004: Law, politics, and international governance, in: Reus-Smit, Christian (ed.): The Politics of International Law, Cambridge, 238–271.

Sugden, Robert 1989: Spontaneous Order, in: Journal of Economic Perspectives 3: 4, 85–97.

Sugden, Robert/Zamarrón, Ignacio E. 2006: Finding the key. The riddle of focal points, in: Journal of Economic Psychology 27: 5, 609–621.

Sullivan, Gavin/Goede, Marieke de 2013: Between Law and the Exception. The UN 1267 Ombudsperson as a Hybrid Model of Legal Expertise, in: Leiden Journal of International Law 26: 04, 833–854.

Takeyh, Ray/Maloney, Suzanne 2011: The self-limiting success of Iran sanctions, in: International Affairs 87: 6, 1297–1312.

Talmon, Stefan 2005: The Security Council as World Legislature, in: The American Journal of International Law 99: 1, 175–193.

Taylor, Ian 2010: The People's Republic of China, in: Black, David R./Williams, Paul D. (eds.): The international politics of mass atrocities. The case of Darfur, London, New York, NY, 176–194.

The Associated Press 1993: International News, United Nations, 16.04.1993.

Thompson, Alexander 2006a: Coercion Through IOs: The Security Council and the Logic of Information Transmission, in: International Organization 60: 1, 1–34.

Thompson, Alexander 2006b: Screening Power: International Organizations as Informative Agents, in: Hawkins, Darren G./Lake, David A./Nielson, Daniel L./Tierney, Michael J. (eds.): Delegation and Agency in International Organizations, Cambridge, MA, New York, NY, Melbourne, Madrid, Cape Town, Singapore, Sao Paulo, 229–254.

Thompson, Alexander 2009: Channels of power. The UN Security Council and U.S. statecraft in Iraq, Ithaca.

Totten, Samuel 2010: Saving Lives in Darfur, 2003-06? Lots of Talk, Little to no Action, in: Grzyb, Amanda F. (ed.): The World and Darfur. International response to crimes against humanity in western Sudan, Montreal, 183–214.

Totten, Samuel/Markusen, Eric (eds.) 2006: Genocide in Darfur. Investigating the atrocities in the Sudan, New York, NY.

Traub, James 2010: Unwilling and Unable: The Failed Response to the Atrocities in Darfur, New York, NY.

Tucker, Joshua 2010: A Conversation about Wikileaks, in: http://themonkeycage.org/2010/11/a_conversation_about_wikileaks/; 07.8.2015.

Tull, Denis M. 2009: Peacekeeping in the Democratic Republic of Congo: Waging Peace and Fighting War, in: International Peacekeeping 16: 2, 215–230.

Turner, Mark 2006: Sudan ministers named in leaked UN Darfur list, in: Financial Times, 22.02.2006.

Turner, Thomas 2013: Congo, Cambridge.

Tzanakopoulos, A. 2010: United Nations Sanctions in Domestic Courts: From Interpretation to Defiance in Abdelrazik v. Canada, in: Journal of International Criminal Justice 8: 1, 249–267.

UN Permanent Missions of France, UK and US 2011: Press Release from the Permanent Missions to the United Nations of France, the United Kingdom, and the United States on the Designation for Sanctions of an Armed Group Leader in the DRC, New York, NY.

Underdal, Arild 1998: Explaining Compliance and Defection: Three Models, in: European Journal of International Relations 4: 1, 5–30.

United Nations 1996: The United Nations and the Iraq - Kuwait conflict. 1990 - 1996, New York, NY.

US Department of Treasury 2007: Treasury Designates Ten Individuals and Entities for the Contributions to the Conflict in the Democratic Republic of the Congo, Washington, DC.

US Embassy Abu Dhabi 2008: UAE January 31 Notice on Bank Sepah - Demarche Delivered: 08ABUDHABI260_a, 28.02.2008.

US Embassy Beijing 2006a: PRC supports UNSC action on Iran; Differs on Scope: 06BEIJING23933_a, 20.11.2006.

US Embassy Beijing 2006b: Corrected Copy: PRC/Iran: Beijing responds to demarche on UK-French draft resolution: 06BEIJING24499_a, 13.12.2006.

US Embassy Beijing 2007a: A/S Silverberg and AFM Cui Discuss Burma, Haiti, Iran, UNSC Reform, Sudan and Human Rights: 07BEIJING617_a, 26.01.2007.

US Embassy Beijing 2007b: Democratic Republic of Congo Sanctions Demarche delivered to China: 07BEIJING1839_a, 19.03.2007.

US Embassy Beijing 2008: China Opposes Four Sudan-Related Designations: 08BEIJING2201_a, 06.06.2008.

US Embassy Beijing 2010: PRC/Iran: Beijing Continues to Call for Patience: 10BEIJING293_a, 04.02.2010.

US Embassy Beijing 2011: China Urged to Reconsider Four Sudan-related Designations: 08BEIJING2277_a, 11.06.2011.

US Embassy Berlin 2007a: German Government Actions to Implement UNSCR 1737 Sanctions on Iran: 07BERLIN34_a, 05.01.2007.

US Embassy Berlin 2007b: Treasury under Secretary Levey discusses next steps against Iran with German officials: 07BERLIN1450_a, 25.07.2007.

US Embassy Berlin 2007c: Iran - German Finance Ministry Supports Third UNSCR, Expresses Concern on Autonomous Measures: 07BERLIN2192_a, 12.12.2007.

US Embassy Kabul 2009: UN 1267 Al Qaeda/Taliban Sanctions Team Briefs Embassy on Delisting Strategy: 09KABUL1520_a, 14.06.2009.

US Embassy Khartoum 2006a: Sudan - Response to demarche on gathering Information for Individuals under UNSCR 1591: 06KHARTOUM235_a, 30.01.2006.

US Embassy Khartoum 2006b: Sudan/China: UNSC vote on Darfur shows Limits of Friendship: 06KHARTOUM996_a, 26.04.2006.

US Embassy Khartoum 2007: Response to Request: UK-Proposed Individuals for Designation Under UNSCR 1591: 07KHARTOUM363_a, 08.03.2007.

US Embassy Kinshasa 2005a: UN/DRC Sanctions List: 05KINSHASA1429_a, 07.09.2005.

US Embassy Kinshasa 2005b: China's Influence in Africa: Expanding in the DRC: 05KINSHASA1614_a, 29.09.2005.

US Embassy Kinshasa 2007: Congolese Trader on UN Sanctions List Murdered in North Kivu: 07KINSHASA764_a, 06.07.2007.

US Embassy London 2007a: Additional Iran Designations Under EO 13382: Initial UK Reactions: 07LONDON104_a, 10.01.2007.

US Embassy London 2007b: Darfur: UK Mulling Tougher Measures: 07LONDON438_a, 02.02.2007.

US Embassy London 2008a: Iran: UK Says EU Desire for thrid UNSCR Means no Autonomous Measures Before March: 08LONDON272_a, 29.01.2008.

US Embassy London 2008b: DRC Sanctions: UK Appreciates Information, Keen to Move Forward: 08LONDON2196_a, 27.08.2008.

US Embassy London 2009a: DRC/Sanctions: UK Prefers Previous Approach and Statements of Case: 09LONDON124_a, 16.01.2009.

US Embassy London 2009b: UK Studying Range of Options for 1267 Sanctions Reivew; Under Logistical and Legal Pressure: 09LONDON452_a, 20.02.2009.

US Embassy Moscow 2006a: P-5 Hold Consultations March 2 in Moscow: 06MOSCOW3362_a, 31.03.2006.

US Embassy Moscow 2006b: MFA on UNSC Action on Iran: 06MOSCOW12783_a, 04.12.2006.

US Embassy Moscow 2006c: Russia and Iran: After the Sanctions Resolution: 06MOSCOW12171_a, 29.12.2006.

US Embassy Moscow 2007a: HIRC Chairman Lantos Meeting with Russian Security Council Secretary Ivanov: 07MOSCOW753_a, 21.02.2007.

US Embassy Moscow 2007b: Russia and Iran: Moscow's Shifting Views: 07MOSCOW3434_a, 13.07.2007.

US Embassy Moscow 2008: Russia concerned with UNSCR 1267 delisting of Taliban: 08MOSCOW1817_a, 25.06.2008.

US Embassy Moscow 2010: U/S Burns' Moscow Meetings: 10MOSCOW144_a, 22.01.2010.

US Embassy Paris 2005a: Darfur Accountability: Amb. Prosper's discussion with French MFA: 05PARIS1039_a, 17.02.2005.

US Embassy Paris 2005b: France Will Review Their Position on Language in the UNSCR 1267 Successor Resolution: 05PARIS5157_a, 26.07.2005.

US Embassy Paris 2005c: PDAS Volker Hears French Views on Africa: 05PARIS6938_a, 11.10.2005.

US Embassy Paris 2006a: Sudan Sanctions Demarche elicits MFA remarks on UNSC Procedures: 06PARIS2587_a, 19.04.2006.

US Embassy Paris 2006b: French Comment on U.S. Proposal Regarding the 1267 Committee: 06PARIS3382_a, 19.05.2006.

US Embassy Paris 2007a: France/Darfur: Alignment on HSP, Divergence on Sanctions Designations: 07PARIS1062_a, 19.03.2007.

US Embassy Paris 2007b: France: U/S Levey Discusses Next Steps on Iran: 07PARIS4653_a, 06.12.2007.

US Embassy Paris 2008a: A/S Silverberg reviews UN issues with French counterpart: 08PARIS139_a, 25.01.2008.

US Embassy Paris 2008b: French Anticipate Major Pushback on Next UNSCR on Iran: 08PARIS147_a, 29.01.2008.

US Embassy Paris 2008c: France Agrees with USG Approach on Rwandan FDLR Sanctions: 08PARIS1100_a, 10.06.2008.

US Embassy Paris 2010: Staffdel Kessler Engages the French on Iran, Sanctions and Afghanistan: 10PARIS71_a, 22.01.2010.

US Embassy Rome 2007a: Italy Likely to Support DRC Sanctions: 07ROME551_a, 20.03.2007.

US Embassy Rome 2007b: Darfur: Italy Agrees Pressure Needed, But Wants Time for Dialogue: 07ROME903_a, 30.04.2007.

US Embassy Rome 2007c: Italian requests at UN to unfreeze Bank Sepah Rome assets: 07ROME1036_a, 16.05.2007.

US Embassy Rome 2007d: Additional Italian Views on Request at UN to Unfreeze Bank Sepah Rome Assets: 07ROME1069_a, 18.05.2007.

US Embassy Stockholm 2007: Swedish Response to USG Questions on Bank Sepah: 07STOCKHOLM1445_a, 10.11.2007.

US Embassy The Hague 2006: Netherlands/Sudan: Gathering Information for Individuals under UNSCR 1591: 06THEHAGUE207_a, 31.01.2006.

US Embassy Tokyo 2006: Sudan Sanctions: Japan supports U.S. efforts: 06TOKYO2182_a, 21.04.2006.

US Permanent Mission to the UN 2006a: UNSC/Sanctions: China's ETLO/SHAT Designation Request: 06USUNNEWYORK340_a, 23.02.2006.

US Permanent Mission to the UN 2006b: A Step Closer to Transition: With UNSCR 1663 Passage, SYG Can Reach Out to NATO: 06USUNNEWYORK618_a, 28.03.2006.

US Permanent Mission to the UN 2006c: UNSC/Sudan: Pallor hangs over Members' Assessment of Abuja Prospects: 06USUNNEWYORK835_a, 24.04.2006.

US Permanent Mission to the UN 2006d: UNSC/Sudan: Council Adopts Sanctions Resolution and Abuja PRST in Package Deal: 06USUNNEWYORK890_a, 28.04.2006.

US Permanent Mission to the UN 2006e: Darfur Resolution passes unanimously with some Chinese help: 06USUNNEWYORK1017_a, 18.05.2006.

US Permanent Mission to the UN 2007a: UNSC Iran Sanctions Committee First Meeting: 07USUNNEWYORK66_a, 26.01.2007.

US Permanent Mission to the UN 2007b: Making Taliban Sanctions Relevant: 07USUNNEWYORK173_a, 02.03.2007.

US Permanent Mission to the UN 2007c: UN/Sudan: UK and French Reactions to US Sanctions Targets: 07USUNNEWYORK166_a, 02.03.2007.

US Permanent Mission to the UN 2007d: UN/Sudan Sanctions: French Reactions to US Names for Sanctions: 07USUNNEWYORK194_a, 12.03.2007.

US Permanent Mission to the UN 2007e: UN/Sudan Sanctions: Initial Markers on possible Sanctions laid down in Committee Meeting, UK ready to table names: 07USUNNEWYORK197_a, 12.03.2007.

US Permanent Mission to the UN 2007f: UN/Sudan Sanctions: P5 Ambassadors Discuss Sudan Sanctions: 07USUNNEWYORK198_a, 12.03.2007.

US Permanent Mission to the UN 2007g: UNSC/Darfur: Members Disappointed with Bashir Response but Little Appetite for Sanctions: 07USUNNEWYORK227_a, 21.03.2007.

US Permanent Mission to the UN 2007h: UN/Sudan Sanctions: Committee Meets with Experts Panel to Discuss Embargo Violations: 07USUNNEWYORK282_a, 11.04.2007.

US Permanent Mission to the UN 2007i: UN/Sudan Sanctionos: French Seek US Reaction on Proposed Sanctions Targets: 07USUNNEWYORK305_a, 19.04.2007.

US Permanent Mission to the UN 2007j: Iran Sanctions Exemptions for Bank Sepah: 07USUNNEWYORK381_a, 17.05.2007.

US Permanent Mission to the UN 2007k: UN/Sudan Sanctions: Committee Discusses Strengthening the Embargo: 07USUNNEWYORK385_a, 17.05.2007.

US Permanent Mission to the UN 2007l: Exemptions to Iran Sanctions: 07USUNNEWYORK546_a, 03.07.2007.

US Permanent Mission to the UN 2007m: UN/DRC Sanctions: Unanimous Council Support for Renewed Sanctions in DRC: 07USUNNEWYORK619_a, 27.07.2007.

US Permanent Mission to the UN 2007n: UN/1267 Sanctions: Russians Unyielding on Removing Holds on Afghan De-Listing Requests: 07USUNNEWYORK1024_a, 15.11.2007.

US Permanent Mission to the UN 2007o: UN/Sudan Sanctions: London Considering Alternatives to Qatar's Sanctions Proposal: 07USUNNEWYORK1055_a, 21.11.2007.

US Permanent Mission to the UN 2007p: P-5 Discuss Sudan, Burma: 07USUNNEWYORK1065_a, 23.11.2007.

US Permanent Mission to the UN 2008a: P5 Discussion Shows Continued Divisions on Darfur: 08USUNNEWYORK74_a, 23.01.2008.

US Permanent Mission to the UN 2008b: UN/DRC Sanctions: Council Reviews Sanctions Regime: 08USUNNEWYORK141_a, 14.02.2008.

US Permanent Mission to the UN 2008c: UN/Iran sanctions: Bank Sepah demarche delivered to Chinese Mission: 08USUNNEWYORK722_a, 11.08.2008.

US Permanent Mission to the UN 2008d: UN/Sudan Sanctions: U.S. isolated on new Names: 08USUNNEWYORK809_a, 08.09.2008.

US Permanent Mission to the UN 2008e: UN/DRC Sanctions: Moving on second Group of FDLR Targets: 08USUNNEWYORK908_a, 03.10.2008.

US Permanent Mission to the UN 2008f: UN/Sudan Sanctions: Committee Divided on Expert Recommendations: 08USUNNEWYORK1051_a, 10.11.2008.

US Permanent Mission to the UN 2009a: Iran/Cyprus: Next Steps on Monchegorsk: 09USUNNEWYORK103_a, 10.02.2009.

US Permanent Mission to the UN 2009b: 1267 Committee launches work on major new tasks: 09USUNNEWYORK185_a, 27.02.2009.

US Permanent Mission to the UN 2009c: DRC: Moving on second Batch of FDLR Designations: 09USUNNEWYORK267_a, 16.03.2009.

US Permanent Mission to the UN 2009d: 1267: U.S./UK Brainstorm Options for New Resolution: 09USUNNEWYORK881_a, 08.10.2009.

US Permanent Mission to the UN 2010: USUN and Turkish Missions Exchange Views on Issues Before Security Council: 10USUNNEWYORK95_a, 20.02.2010.

US State Department 2008a: USUN place Hold on Rwandan FDLR Submission and Request Information: 08STATE60880_a, 05.06.2008.

US State Department 2008b: Sudan/Chad - Urge Support for Designating 4 Individuals under targeted Sanctions: 08STATE61842_a, 09.06.2008.

US State Department 2008c: FDLR Information Request for UN Sanctions in DRC Committee: 08STATE86006_a, 11.08.2008.

US State Department 2008d: Information sharing for UN Sanctions in DRC Committee: 08STATE90905_a, 23.08.2008.

US State Department 2008e: USUN Instruction: Call P-3 Meeting regarding Sudan Sanctions: 08STATE94825_a, 04.09.2008.

US State Department 2008f: USUN Guidance: UKUN Sudan Sanctions Non-Paper: 08STATE119781_a, 11.11.2008.

US State Department 2008g: Sudan: Sanctions Committee splits on Proposals: 08USUNNEWYORK1134_a, 04.12.2008.

US State Department 2009: 4 Names to be added to UNSC DRC Sanctions Committee's List: 09STATE3354_a, 13.01.2009.

van Evera, Stephen 1997: Guide to methods for students of political science, Ithaca, NY.

van Kemenade, Willem 2010: China vs. the Western Campaign for Iran Sanctions, in: The Washington Quarterly 33: 3, 99–114.

van Schendelen, Marinus P. C. M. 1996: EC Committees: Influence Counts more than Legal Power, in: Pedler, Robin H./Schaefer, Guenther F. (eds.): Shaping European Law and Policy. The Role of Committees and Comitology in the Political Process, Maastricht, 25–37.

van Walsum, Peter 2004: The Iraq Sanctions Committee, in: Malone, David M. (ed.): The UN Security Council: From the Cold War to the 21st Century, Boulder, CO, 181–193.

van Woudenberg, Anneke 2005: The Curse of Gold. Democratic Republic of Congo, New York, NY.

Verdier, Daniel 2008: Multilateralism, Bilateralism, and Exclusion in the Nuclear Proliferation Regime, in: International Organization 62: 03, 439–476.

Vines, Alex 2007: Can UN arms embargoes in Africa be effective?, in: International Affairs 83: 6, 1107–1121.

Voeten, Erik 2001: Outside Options and the Logic of Security Council Action, in: American Political Science Review 95: 4, 845–858.

Voeten, Erik 2005: The Political Origins of the UN Security Council's Ability to Legitimize the Use of Force, in: International Organization 59: 3, 527–557.

Voeten, Erik 2010: Wikileaks Data and the Security Council, in: http://themonkeycage.org/2010/11/wikileaks_data_and_the_un_secu/; 07.8.2015.

Vreeland, James R./Dreher, Axel 2014: Political Economy of the United Nations Security Council. Money and influence, Cambridge.

Vries, Anthonius W. de/*Hazelzet, Hadewych* 2005: The EU as a New Actor on the Sanctions Scene, in: Wallensteen, Peter/Staibano, Carina (eds.): International sanctions. Between words and wars in the global system, London, New York, NY, 95–107.

Wadhams, Nick 2005a: Annan putting new pressure on U.N. Security Council to tackle Sudan, United Nations, 04.03.2005.

Wadhams, Nick 2005b: New U.N. Darfur Sanctions Passed, in: The Washington Post, 30.03.2005, A10.

Wadhams, Nick 2005c: Europe and America clash over refining U.N. terrorism sanctions, United Nations, 20.07.2005.

Wadhams, Nick 2006a: U.S. circulates draft resolution on Sudan peacekeeping transfer, United Nations, 08.05.2006.

Wadhams, Nick 2006b: U.S. runs into trouble with tough Sudan resolution, United Nations, 12.05.2006.

Wadhams, Nick 2006c: Security Council passes resolution to speed U.N. peacekeeping force in Darfur, United Nations, 16.05.2006.

Wagner, Thomas 2007: Major powers begin work on new Iran nuclear resolution, still seeking diplomatic solution, London, 27.02.2007.

Wallensteen, Peter/Grusell, Helena 2012: Targeting the Right Targets? The UN Use of Individual Sanctions. Global Governance: A Review of Multilateralism and International Organizations, in: Global Governance 18: 2, 207–230.

Wallensteen, Peter/Staibano, Carina (eds.) 2005: International sanctions. Between words and wars in the global system, London, New York, NY.

Wallensteen, Peter/Staibano, Carina/Eriksson, Mikael 2003: Making Targeted Sanctions Effective. Guidelines for the Implementation of UN Policy Options, Uppsala.

Waltz, Kenneth N. 1979: Theory of international politics, Long Grove, IL.

Waltz, Kenneth N. 2012: Why Iran Should Get the Bomb, in: Foreign Affairs 91: 4, 2–5.

Ward, Curtis A. 2005: The Counter-Terrorism Committee, in: Wallensteen, Peter/Staibano, Carina (eds.): International sanctions. Between words and wars in the global system, London, New York, NY, 167–180.

Wasswa, Henry 2005: UN Security Council Discussing Possible Sanctions on Rebel Groups in Congo, Kampala, 09.11.2005.

Weaver, Catherine/Leiteritz, Ralf J. 2005: "Our Poverty Is a World Full of Dreams:" Reforming the World Bank, in: Global Governance: A Review of Multilateralism and International Organizations 11: 3, 369–388.

Weidmann, N. B. 2015: On the Accuracy of Media-based Conflict Event Data, in: Journal of Conflict Resolution 59: 6, 1129–1149.

Weiss, Thomas G./Cortright, David/Lopez, George A./Minear, Larry (eds.) 1997: Political gain and civilian pain. Humanitarian impacts of economic sanctions, Lanham, MD, New York, NY, Boulder, CO, Oxford.

Weschler, Joanna 2009-2010: The Evolution of Security Council Innovations in Sanctions, in: International Journal, 31–43.

Wet, Erika de 2001: Human Rights Limitations to Economic Enforcement Measures Under Article 41 of the United Nations Charter and the Iraqi Sanctions Regime, in: Leiden Journal of International Law 14: 2, 277–300.

Wezeman, Pieter D. 2007: United Nations Arms Embargoes. Their Impact on Arms Flows and Target Behavior. Case Study: Darfur, Sudan, 2004-2006, Stockholm.

What's in Blue 2011a: Insights on Sudan Sanctions Committee, New York, NY, 10.03.2011.

What's in Blue 2011b: Democratic Republic of the Congo Sanctions Committee, New York, NY, 12.07.2011.

What's in Blue 2012: Democratic Republic of the Congo, New York, NY, 20.11.2012.

What's in Blue 2013a: Democratic Republic of the Congo, New York, NY, 04.02.2013.

What's in Blue 2013b: High-Level Debate on the Democratic Republic of the Congo, New York, NY, 24.07.2013.

What's in Blue 2013c: Democratic Republic of the Congo, New York, NY, 11.09.2013.

What's in Blue 2014a: Democratic Republic of the Congo, New York, NY, 29.01.2014.

What's in Blue 2014b: Democratic Republic of the Congo, New York, NY, 26.03.2014.

Williams, Paul D. 2010: The United Kingdom, in: Black, David R./Williams, Paul D. (eds.): The international politics of mass atrocities. The case of Darfur, London, New York, NY, 195–212.

Williams, Paul D./Bellamy, Alex J. 2005: The Responsibility To Protect and the Crisis in Darfur, in: Security Dialogue 36: 1, 27–47.

Wood, Michael C. 1998: The Interpretation of Security Council Resolutions, in: Frowein, Jochen A./Wolfrum, Rüdiger (eds.): Max Planck Yearbook of United Nations Law, London, 73–96.

Worsnip, Patrick 2011: UN Committee Sanctions Congo Militia Chief, United Nations, 29.11.2011.

Wouters, Jan/Drieskens, Edith/Biscop, Sven (eds.) 2009: Belgium in the UN Security Council. Reflections on the 2007-2008 membership, Antwerpen.

Wright, Robin 2007: New U.N. Iran Resolution Considered; Draft Measure Would Impose New Sanctions on Military Unit, Bank, in: The Washington Post, 11.12.2007, A17.

Wright, Robin/Lynch, Colum 2008: U.N. Imposes New Sanctions on Iran; Administration Must Settle for Watered-Down Resolution, in: The Washington Post, 04.03.2008, A15.

Wuthnow, Joel 2010: China and the Processes of Cooperation in UN Security Council Deliberations, in: The Chinese Journal of International Politics 3: 1, 55–77.

Wuthnow, Joel 2013: Chinese diplomacy and the UN Security Council. Beyond the veto, New York, NY.

Xinhua 1991a: Security Council Welcomes Humanitarian Assistance to Iraq, United Nations, 03.03.1991.

Xinhua 1991b: U.N. Chief Hopes to See Sanctions Against Iraq Lifted, United Nations, 04.03.1991.

Xinhua 1993: Iraq Requests Air Transport of Pilgrims to Mecca, Baghdad, 15.04.1993.

Xinhua 2008: UN Council Urges Armed Groups in DRC to Lay Down Arms, United Nations, 13.03.2008.

Xu, Duo 2004: News Analysis: International Powers Intertwined in Sudan's Darfur Conflict, Tripoli, 16.10.2004.

Yang, Suzanne X. 2013: China in UN Security Council Decision-making on Iraq. Conflicting Understandings, Competing Preferences, London.

Young, Oran R. 1989: The Politics of International Regime Formation: Managing Natural Resources and the Environment, in: International Organization 43: 3, 349–375.

Young, Oran R. 1994: International governance. Protecting the environment in a stateless society, Ithaca, NY.

Young, Oran R. (ed.) 1999: The effectiveness of international environmental regimes. Causal connections and behavioral mechanisms, Cambridge, MA.

Zagaris, Bruce 2002: Somali Swedes Challenge Terrorism Freeze Procedures, 2002.

Zhang, Dacheng 1994: First Foreign Airliner Lands on Iraq, Baghdad, 27.07.1994.

Annex

Annex 1: List of UN Sanctions Regimes

List of UN Sanctions Regimes		
Sanctions regime	Initiated *Date*	Terminated *Date*
232 Southern Rhodesia	SC Res. 232 16 December 1966	SC Res. 460 21 December 1979
418 South Africa	SC Res. 418 4 November1977	SC Res. 919 25 May 1994
661 Iraq	SC Res. 661 6 August 1991	SC Res. 1483 22 May 2003
713 Former Yugoslavia	SC Res. 713 25 September 1991	Note verbale: SCA/96(4) 18 June 1996
733 Somalia	SC Res. 733 23 January 1992	Continuing
748 Libya	SC Res. 748 31 March 1992	SC Res. 1506 12 September 2003
757 FRYSM	SC Res. 757 30 May1992	SC Res. 1074 1 October 1996
788 Liberia	SC Res. 788 19 November 1992	SC Res. 1343 7 March 2001
820 Bosnian Serbs	SC Res. 820 17 April 1993	SC Res. 1074 1 October 1996
841 Haiti	SC Res. 841 15 June 1993	SC Res. 948 15 October 1994
864 Angola (UNITA)	SC Res. 864 15 September 1993	SC Res. 1448 9 December 2002
918 Rwanda	SC Res. 918 17 May 1994	SC Res. 1823 10 July 2008
1054 Sudan	SC Res. 1054 26 April 1996	SC Res. 1372 28 September 2001
1132 Sierra Leone	SC Res. 1132 8 October 1997	SC Res. 1940 29 September 2010
1160 Federal Republic of Yugoslavia	SC Res. 1160 31 March 1998	SC Res. 1367 10 September 2001
1267 Afghanistan/ Taliban/Al-Qaida	SC Res. 1267 15 October 1999	Continuing
1298 Eritrea/Ethiopia	SC Res. 1298 17 May 2000	S/PRST/2001/14 15 May 2001
1343 Liberia	SC Res. 1343 7 March2001	SC Res. 1521 22 December 2003

List of UN Sanctions Regimes		
Sanctions regime	Initiated *Date*	Terminated *Date*
1493 Democratic Republic of the Congo	SC Res. 1493 28 July 2003	Continuing
1518 Iraq	SC Res. 1518 24 November 2003	Continuing
1521 Liberia	SC Res. 1521 22 December 2003	Continuing
1556 Sudan	SC Res. 1556 30 July 2004	Continuing
1572 Cote d'Ivoire	SC Res. 1572 15 November 2004	Continuing
1636 Lebanon	SC Res. 1636 31 October2005	Continuing
1718 North Korea	SC Res. 1718 14 October 2006	Continuing
1737 Iran	SC Res. 1737 27 December 2006	Continuing
1970 Libya	SC Res. 1970 26 February 2011	Continuing
1988 Taliban	SC Res. 1988 17 June 2011	Continuing
2048 Guinea-Bissau	SC Res. 2048 18 May 2012	Continuing
2127 Central African Republic	SC Res. 2127 5 December 2013	Continuing
2140 Yemen	SC Res. 2140 26 February 2014	Continuing
2206 South Sudan	SC Res. 2206 3 March 2015	Continuing

Notes: Author's illustration based on Farrall 2007: 468–469; see also: http://www.un.org/sc/committees/index.shtml. 'FRYSM' denotes Former Yugoslav Republic of Serbia and Montenegro.