



SMART SANCTIONS AS ALTERNATIVE MEASURES TO ECONOMIC SANCTIONS

DR. SEDDIKI SAMIA¹

¹Lecturer Class A, Faculty of Law and Political Science, Mohamed El Bashir

El Ibrahimi University, Bordj Bou Arreridj(Algeria).

The E-mail Author: samia.seddiki@univ-bba.dz

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Abstract:

Smart sanctions serve as a tool for protecting the international community and achieving international security and stability. They act as a reaction against any unlawful activities conducted by a specific state or a group of states. The United Nations Security Council possesses broad discretionary authority in determining situations that pose a threat to or breach international peace and security, or constitute acts of aggression. Should the Council find any of the aforementioned situations to be valid, it has the authority to impose smart sanctions against an entire nation.

Keywords: *Smart sanctions, Security Council, economic sanctions, innovative sanctions, traditional penalties.*

INTRODUCTION:

Economic sanctions have served as a means of resolving disputes under international law and are considered the preferred policy tool for addressing the myriad threats to international peace and security. Economic sanctions are among the most widespread and effective deterrents in contemporary international relations, representing a silent but lethal remedy that uses less violent means. Experience has shown that they are the economic equivalent of what is known in warfare as total bombing, and they were adopted by most international organizations during the Cold War.

Today, however, international relations have witnessed the emergence of so-called smart sanctions as a new type of coercive measures directed against individuals, entities and terrorist organizations. However, these measures remain limited in the face of international reluctance and inaction towards these organizations, which increases their ability to destabilize nations. From this perspective, we pose the following central question:

How effective are smart sanctions in international law?

To address the main question, in the first section we will explore the concept of smart sanctions by discussing their definition and types. In the second section, we will evaluate smart sanctions by highlighting their advantages and disadvantages.

Section One: The Concept of Smart Sanctions

Smart sanctions, also known as new sanctions, aim to avoid harming civilians. They are part of an integrated process that seeks to support and enhance the foreign policy objectives of countries that use this type of sanction by demonstrating democratic behavior in foreign policy, exercising prudence, promoting peace, and fostering security within the international community.

Thus, in the first subsection we will define smart sanctions, while in the second subsection we will discuss the types of smart sanctions.

Subsection One: Defining Smart

Sanctions Smart sanctions emerged as a response to the negative impact of traditional comprehensive economic sanctions on vulnerable citizens and the negative impact of such sanctions on impoverished nations. In response to these concerns, a range of measures have been introduced, including financial sanctions, travel bans, arms embargoes, and restrictions on dual-use goods. This new type of smart sanctions



is designed to put pressure on the responsible actors in the targeted countries who violate international law, rather than on the general population.

The rationale behind smart sanctions is based on a humanitarian and ethical logic that contrasts with the traditional logic of comprehensive sanctions, which has proven ineffective and failed to achieve its intended goals. In this context, the smart approach emphasizes humanitarian considerations as a strategic objective¹.

International smart sanctions represent an innovative form of international economic sanctions. These sanctions specifically target ruling factions and decision-makers in the targeted state while sparing the general population from being affected. The primary goal is to mitigate the adverse effects of sanctions on nations by concentrating coercive pressure on the ruling elites², officials, and entities within these countries. This is achieved through restricting their movements, travel, and freezing their assets.

Thus, smart sanctions impose coercive pressures on specified individuals and entities, limiting their mobility and targeting their financial assets to reduce the unintended negative consequences that traditional economic sanctions have inflicted on vulnerable populations and innocent civilians.

Smart sanctions focus coercive pressures on those responsible for violations while minimizing unintended adverse effects. They target the decision-making process and the elites within corporations or entities under their control. Targeting may also involve sanctions on specific products selectively or on activities deemed vital to sustaining a rejected policy, which are significant to the decision-makers.

Smart sanctions thus serve as coercive pressures on violators while aiming to reduce unintended negative effects, focusing on the decision-making process and the elites in companies or entities they control. Targeting may also entail imposing sanctions on select products or activities critical for the operation of objectionable policies, which hold importance for responsible decision-makers.

In sum, smart sanctions imposed by the Security Council against individuals and non-state entities are targeted measures that have emerged in recent years as a result of the negative impact of economic sanctions on vulnerable populations in targeted countries. Smart sanctions aim to identify elites, decision-makers and officials who are responsible for the policies imposed on their countries and who are capable of changing them. To achieve this, the Security Council, through its committees, draws up lists of individuals affected by the sanctions decision and specifies their financial assets and resources. It also seeks to limit arms sales and restrict their movement, thereby harming entities and organizations considered a threat to international peace and security³.

Moreover, the primary motivation behind the shift from international economic sanctions to smart sanctions is to spare countries the humanitarian crises that result from the broad application of sanctions, as well as the economic crises caused by broad restrictions on the movement of goods and products. In contrast, smart sanctions target specific individuals, organizations, and entities by freezing their financial assets and movements, resulting in a lesser impact on humanitarian conditions⁴.

It can be said that the smart sanctions imposed by the Security Council against individuals and non-state entities are targeted sanctions that have emerged in recent years as a result of the negative effects left by economic sanctions on the vulnerable populations of the targeted countries. Smart sanctions aim to identify

¹- DjacobaLiva, *UN Sanctions and TheirSecondaryEffects: Assistance to Victims and Legal Avenues for Prevention*, Presses Universitaires de France, Paris, 1st edition, 2005, p. 248.

²- Susan Ismail Abdullah Bandyaneh, *The Role of Smart Sanctions in Managing Humanitarian Crises*, Halabi Legal Publications, Beirut, 2003, p. 57.

³- Cortright David, Lopez George, *Smart Sanctions, Targeting Economic Statecraft*, Rowman and Littlefield Publishers, New York, 2002, p. 109.

⁴- Susan Ismail Abdullah Bandyaneh, *Previous Reference*, p. 57.



the elites, decision-makers, and officials responsible for the policies imposed on their countries and those capable of changing them. To achieve this, the Security Council, through its committees, identifies lists of individuals subject to the sanction decision and determines their financial assets and resources. It also seeks to restrict arms sales and limit their movements, thereby harming the entities and organizations considered threats to international peace and security.

Moreover, the primary motivation behind the shift from international economic sanctions to smart sanctions is to spare countries the humanitarian crises resulting from the comprehensive application of sanctions, as well as the economic crises caused by the extensive restriction of the movement of goods and products. In contrast, smart sanctions target specific individuals, organizations, and entities by freezing their financial assets and movements, thus having a lesser impact on humanity.

From this perspective, smart sanctions have emerged due to the ineffectiveness of traditional or comprehensive sanctions in protecting the rights of vulnerable civilian groups in society. This has led to serious and ongoing human rights violations and threats through persecution and genocide, resulting in humanitarian suffering that harms the international community. In addition, poor economic management results from a lack of humanitarian assistance. Furthermore, there is often inadequate monitoring of sea and air crossings, which is essential, as there is no inspection by the authorities of the importing country. This leads to violations of social and economic rights.

Smart sanctions, also known as targeted sanctions, have several distinguishing features:

- Smart sanctions do not involve harming civilians as a means of hurting targeted leaders in the intermediate phase. Thus, the mechanism seeks to change the policies of the targeted state's decision-makers without inflicting humanitarian suffering on innocent civilians as a means of achieving its goals.
- Smart sanctions are more effective in targeting and punishing those in power who commit acts deemed reprehensible by the international community.
- Smart sanctions seek to protect vulnerable social groups, including women, children and the elderly, from becoming victims of these side effects by isolating the most vulnerable parties in society from the effects of sanctions. They also exempt certain goods, such as food and medical supplies, from restrictions, thereby reducing humanitarian disasters.
- Smart sanctions do not target the state itself, but focus on those responsible for chaos and disorder within it, targeting elites and decision-makers without affecting the rest of the citizenry.

Section Two: Types of Smart Sanctions

Chapter VII of the United Nations Charter provides the framework within which the Security Council may enforce measures. It allows the Council to determine whether there is a threat to the peace, a breach of the peace, or an act of aggression, and to make recommendations or resort to imposing smart sanctions to maintain international peace and security. Before the Security Council can take mandatory measures, it must determine the existence of any threat to peace, breach of peace, or act of aggression.

This includes cases that the Council identifies as threats to peace, in particular those with a regional character, such as disputes between or within countries, or internal conflicts with regional or non-regional dimensions. In addition, the Council identifies potential or general threats that pose risks to international peace and security, such as terrorist acts, the proliferation of weapons of mass destruction, and the illicit trafficking and proliferation of small arms and light weapons.

Article 39 of the United Nations Charter refers to the powers of the Security Council to take such measures as may be necessary to maintain or restore international peace and security in accordance with the provisions of Articles 41 and 42 of the Charter¹.

¹- Ahmed Mebkhouta, "The Evolution of the Security Council's Powers in Implementing Chapter VII of the UN Charter," Algerian Journal of Law and Political Science, Vol. 06, No. 02/2021, p. 473.



Traditionally, most of the Security Council's classifications of terrorist acts stem from Resolution 748 of 1992, which described Libya's failure to demonstrate concrete actions to abandon terrorism as a type of threat to international peace and security¹. This resolution raised the question of the legality of invoking Chapter VII and the classification of terrorism as a threat to international peace and security. Subsequent UN resolutions have continued this classification by considering terrorist acts committed by these organizations as threats to international peace and security. In particular, Resolution 1373 of 2001 opened the door for the Security Council to combat this phenomenon by taking measures under Articles 41 and 42 of the Charter.

International smart sanctions vary and differ according to their content or the authority that applies them. The main types of these sanctions include the following:

First: Arms embargo:

The arms embargo is one of the most commonly used smart sanctions because it aims to weaken the military power of the targeted country without compromising civilian security. The arms embargo represents a new idea in selective smart sanctions², focusing on military equipment rather than on goods and products essential to the international community. This type of sanction targets extremist groups associated with acts of violence that could threaten international peace and security.

The purpose of an arms embargo is to deter and prevent military and political leaders by denying them access to weapons and related equipment, while sparing civilian populations pain and economic deprivation³. By restricting access to weapons, arms embargoes seek to limit the flow of arms to areas of violent conflict, a goal that has often been pursued in Africa. In addition, the arms embargo helps identify those who violate international norms. Thus, the simple logic behind imposing an arms embargo is that without weapons, there will be no conflict. Since the end of the Cold War, the Security Council has used this type of sanction in more than 15 cases, all targeting non-state actors, entities and terrorist organizations⁴.

Second: Travel ban:

This measure involves the prohibition of the entry or transit of individuals through the territory of states, regardless of the mode of passage and the border point used. The implementation of these measures does not require states to arrest individuals, but is limited to preventing them from entering their territory. The goal is to restrict the movement of targeted individuals and organizations. Since travel is essential for leaders and politicians in their international relations, restricting their movement necessarily weakens the target without affecting civilians.

The travel ban may vary depending on the conflict before the Security Council; it may include all travel or focus specifically on trade and aviation of the targeted individuals and groups. This is linked to the precision of the sanctions on the targeted individuals to ensure that the interests of states are not disrupted⁵.

Third: Trade Embargo on Essential Goods

Trade embargoes under traditional sanctions were characterized by their comprehensiveness, imposing restrictions on all commercial materials, including food and medical supplies, as seen in the embargo on Iraq. Recent changes have made trade embargoes selective, in line with the concept of smart sanctions. They are

¹- Jean Marc Sorel, *The Expansion of the Notion of Threat to Peace*. Chapter 07 of the United Nations, S.F.D.I, Paris, 1995, p. 09.

²- Cortright David, Lopez George, *Op. Cit.*, p. 110.

³- KhawlaMohi Al-Din Youssef, *International Economic Sanctions Imposed by the Security Council*, Halabi Legal Publications, Lebanon, 2013, p. 455.

⁴- RidhaQardouh, *Smart Sanctions and Human Rights*, Algeria, Dar Houma, Algeria, 2014, p. 98.

⁵- DjacobaLiva, *Op. Cit.*, p. 248.



now imposed on essential goods of the targeted state, which means selecting vital goods with high economic value that are considered the most important economic resources for the targeted state, thereby giving it power¹.

The trade embargo on essential goods is similar to smart sanctions in that it restricts the movement of critical commodities such as oil, gold, and other materials that support the economy of the targeted state without affecting essential goods that are necessary for the livelihood of the civilian population. This type of sanction primarily targets the governments, organizations, individuals, and entities that are the focus of the sanctions.

Fourth: Targeted financial sanctions

Financial sanctions are a set of measures that take various forms, including the freezing of assets and economic resources, restricting access to financial markets, limiting loans and credits, and prohibiting the sale of real estate abroad. While there have been several instances of these sanctions being included in comprehensive sanctions, they were not precisely formulated and suffered from a lack of clarity in terminology, which affected their implementation at the international level. However, under the recent amendments, financial sanctions have been refined with greater precision².

These sanctions are considered one of the most important types of smart international sanctions that the Security Council has focused on applying. Targeted financial sanctions primarily target individuals and entities associated with them, seeking to weaken them by restricting their financial resources. They serve as a complementary measure to the essential commodities embargo and the arms trade embargo. By restricting the movement of essential goods and the arms trade, as well as the flow of capital, these sanctions inevitably lead to the weakening of the targeted groups.

Section Two: Evaluation of Smart Sanctions as Alternatives to Economic Sanctions

Smart sanctions have quickly become the most widely used peaceful means by the Security Council to deter any state that violates international law, serving as a peaceful alternative to economic sanctions. As a result, the Security Council has increasingly relied on their use to maintain international peace and security. The imposition of these sanctions ensures the achievement of the desired goal of maintaining international peace and security, while avoiding the spillover effects of violating human rights and public freedoms, which can lead to a humanitarian deterioration within the sanctioned states.

Accordingly, in the first section we will discuss the advantages of smart sanctions, and in the second section we will discuss the disadvantages of these sanctions.

Section One: Advantages of Smart Sanctions

The United Nations' reliance on smart sanctions represents a correction of the course of international sanctions and a serious attempt by this global body to avoid the negative repercussions that traditional economic sanctions have on humanitarian development. Notably, the fundamental measures underpinning this new type of sanctions, such as flight bans and the freezing of financial assets, primarily target the ruling elite and decision-makers in the targeted state, meaning natural persons in general. This makes smart sanctions a more suitable tool for addressing new threats to security, particularly as individuals and various entities increasingly contribute to these threats.

Moreover, targeting those involved in the unlawful conduct that justifies the imposition of international economic sanctions is fully consistent with the principle of personal responsibility in sanctions, which requires that the sanction should not apply to a person or entity that did not contribute to the act that triggered the sanction.

¹- RidhaQardouh, Previous Reference, p. 76.

²- KhawlaMohi Al-Din Youssef, Previous Reference, p. 456.



Among the Security Council's most prominent smart sanctions decisions is Resolution 1970, adopted on February 26, 2011, which imposed tough sanctions on the regime of Libyan leader Muammar Gaddafi, who had been called upon by the U.S. president to step down immediately. At the same time, the British government stripped him of his diplomatic immunity and urged him to leave the country. The international pressure coincided with the announcement of opposition control of the town of Zawiyah near Tripoli and a European warning that the Gaddafi regime's repression of the uprising would have consequences, hinting at imminent sanctions. The sanctions adopted by the Security Council in Resolution 1970 included an arms embargo on the sale of arms and ammunition to Libya and a travel ban on six individuals, including Muammar Gaddafi and seven of his sons, as well as individuals closely associated with the regime¹.

Additionally, Security Council Resolution 2017 of 2013 classified ISIS as a terrorist group, called for its eradication, and affirmed that ISIS in Iraq and Syria is subject to an arms embargo and asset freezes imposed under Security Council Resolution 1267 of 1999 and Resolution 2083 of 2012, emphasizing the importance of the immediate and effective implementation of these measures.

Smart sanctions represent an approach based on targeting and selectivity, focusing on individuals rather than states through a strategy that adopts selective measures instead of imposing comprehensive measures on entire populations. However, the implementation and monitoring of these selective measures require greater effort from the sender compared to comprehensive measures. The advantages provided by smart international sanctions include:

- To avoid the negative effects of the traditional theory of international economic sanctions, thereby minimizing the risk of making civilians the target of Security Council sanctions.
- The new practice of smart sanctions is based on the adoption of specific, selective measures targeting the economic aspects of international imports and exports controlled by the targeted entities².
- Reduce the humanitarian costs of comprehensive trade embargoes.
- Make the United Nations less vulnerable to criticism than in the past, since its Charter and rules require it to protect the economic and humanitarian interests of its members, while preserving national interests and not complicating them through comprehensive sanctions.
- Allowing non-military trade and humanitarian activities by human rights organizations, which comprehensive sanctions did not facilitate³.
- Facilitate the flow of essential goods such as food, drinking water, medicine, and other humanitarian and educational materials without imposing restrictions that impede the movement of basic supplies. This was not the case during the implementation of comprehensive sanctions, which imposed restrictions on the movement of essential goods and medical supplies, disproportionately affecting vulnerable groups such as children, women and the elderly.

Section Two: Disadvantages of Smart Sanctions

Smart sanctions imposed on officials, governments, and actors of the targeted state can have negative side effects, especially if the principle of proportionality in imposing the sanction is not respected, particularly in cases where the duration of the sanction (the temporal scope of the sanction, such as an embargo) is not specified. For example, the arms embargo imposed on North Korea has negatively affected the Korean economy and increased the suffering of the Korean people due to the significant contribution of the arms

¹- Khaled Hassani, *The Powers of the Security Council in Implementing Chapter VII: Between the Provisions of the Charter and Contemporary International Practices*, Halabi Legal Publications, Beirut, 2015, p. 166.

²- KhawlaMohi Al-Din Youssef, *Previous Reference*, p. 486.

³- RodricEliaAbi Khalil, *Economic Sanctions in International Law: Between Effectiveness and Human Rights*, 1st edition, Halabi Legal Publications, Beirut, 2009, p. 81.



industry to national income. The randomness of an unstudied targeting process, which does not consider the priorities of the targeted state, especially from economic and social perspectives, inevitably leads to negative effects, particularly on vulnerable groups in society¹. Additionally, applying the principle of personal responsibility, it is illogical for a targeted sanction imposed on a group of officials to extend to their families, as this contradicts the principle of personal accountability.

The effectiveness of the United Nations Security Council is measured not only by its intervention in international conflicts and crises and the adoption of relevant resolutions, but also by its ability to resolve and peacefully settle these issues, as well as to prevent their outbreak or resurgence. Despite the effectiveness of smart sanctions in maintaining international peace and security, they are not without downsides that negatively affect the state and especially the civilian population. Among these drawbacks is the violation of human rights, which leads to serious and harmful humanitarian consequences that adversely affect the general population.

In addition, the arms embargo imposed by the UN has left loopholes for the trafficking of weapons or materials during its implementation, which negatively affects resources such as education and health. It also leads to a decrease in employment opportunities and inflation, affecting the livelihoods of civilians².

Currently, sanctions focus primarily on individuals and entities. The UN explicitly states that targeted sanctions aim to increase the economic costs to political elites and entities for their wrongdoing, whether by freezing assets, restricting access to certain goods, limiting their movement abroad, or cutting off international sources of credit³.

In sum, smart sanctions as a type of coercive measure used by the Security Council to maintain international peace and security - by targeting sanctions at organizations, entities, and individuals while sparing states from economic and humanitarian crises - is a good idea that addresses the humanitarian and economic needs of states. However, there must be broad international cooperation to ensure their success and to weaken the growing power of terrorist organizations in the pursuit of international peace and security.

CONCLUSION:

Smart sanctions, as an alternative mechanism to traditional economic sanctions applied by the Security Council under Chapter VII of the UN Charter to address any violations of international peace and security, have contributed to changing the landscape of procedures used to confront targeted individuals, as they focus on instigators within the state. Accordingly, a number of findings and recommendations have been reached:

- The application of smart sanctions to individuals from the ruling political elite and entities associated with states that violate international law has an impact on their rights and the basic social and economic rights of their families, as well as on the development of the targeted state, thereby affecting the rights of the third generation.
- Smart international sanctions are seen as an appropriate means to address threats posed by individuals or groups, whether within a specific state, such as non-international armed conflicts, or transnationally, such as terrorism and organized crime. Their dynamic nature provides them with the ability to restrict the movement of these individuals wherever they may be and to limit their access to resources that support their activities, including finances or weapons.

¹- Mouka Abdul Karim, Karmi Rima, "Reinforcing Respect for Human Rights by Replacing Comprehensive Sanctions with Smart Sanctions," *Academic Journal of Legal Research*, Vol. 13, No. 01/2022, p. 381.

²- KhawlaMohi Al-Din Youssef, Previous Reference, p. 485.

³- Abdullah Ali Abou, "Sanctions of the Security Council Against Individuals and Non-State Entities," *Al-Rafidain Journal of Law*, Vol. 17, No. 55/2012, p. 225.



- The implementation of smart sanctions is subject to the directives of great powers with veto rights, which shape sanctions according to their interests. The principle of double standards dominates international politics, as political considerations often outweigh legal ones.
- Smart sanctions aim to increase the economic costs to the ruling elite and entities for their deviant behavior, whether by freezing assets, restricting access to certain goods, limiting their movement abroad, or depriving them of international sources of credit. This approach is intended to force elites to change their behavior, since elites, like individuals, are generally unwilling to bear the costs of sanctions, which are essentially aimed at them rather than at states.

Second: Recommendations

- Evaluate the authority of the Security Council in taking all decisions related to the maintenance of international peace and security, as it is the body responsible for carrying out this mission, while ensuring transparency in its decisions and the work of its committees.
- Expanding the number of members of the Security Council, whether permanent or non-permanent, taking into account geographical distribution and establishing other more appropriate criteria, in order to eliminate doubts about the legitimacy of the decisions of the Security Council.
- Establish specific criteria for targeting, recognizing that smart sanctions aim to target individuals accurately and effectively. This is particularly important given that the process of selecting targeted individuals is often imprecise, especially when relying on intelligence services without regard to legal aspects.
- Subjecting the implementation of smart sanctions to an initial assessment, given that the achievement of their objectives is not limited to mere compliance, but also includes compliance with the political and economic conditions surrounding the targeted individuals.

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