

## Lessons learned from the work of the UN Panel of Experts on Iran

By Paulina Izewicz

*The United Nations Panel of Experts on Iran (the 'Panel') was established in 2010 pursuant to UN Security Council Resolution (UNSCR) 1929, with the mandate of monitoring the implementation of UN sanctions imposed on Iran. It fulfilled this role until 16 January 2016, when it was disbanded on the Implementation Day of the Joint Comprehensive Plan of Action (JCPOA).*

*On 22 April 2016, International Institute for Strategic Studies, in collaboration with the Center on Global Energy Policy at Columbia University, hosted a workshop designed for the former members of the Panel to share their experience. As the UN Secretariat takes on the task of monitoring the implementation of UNSCR 2231 (the new resolution endorsing the JCPOA and superseding all previous sanctions resolutions on Iran), it will face a number of challenges. Some of these challenges will be unique to the Secretariat's new mandate but in many areas they will mirror issues faced by the Panel. We asked the Panel to comment on their experience while on the Panel.*

**The Panel suffered for lack of independence and insulation from the UN Security Council and its political disputes.** When the Panel was created, there was a presumption of independence. However, as a result of the political dynamic within the Security Council and as a direct consequence of a precedent set in connection with the Panel's first report in 2011 being blocked, this independence and autonomy was soon attenuated. Thereafter, the Panel had to balance its reports in a very careful fashion if it wanted them to see the light of day. This, in turn, resulted in the impartiality and credibility of the Panel as an effective investigative body being questioned, particularly in the absence of sufficient support by the Sanctions Committee and Security Council in defending the Panel's work. This consciousness was not all bad: knowing that reports would be criticised on political grounds made Panel members more attentive to precision in their findings. However, the fear that political considerations would result in the Panel's reports being vetoed by one or more UNSC members interfered with the free flow of communications between the Panel and the international community it served.

**Another problem hindering the Panel's work concerned limited resources.** Throughout the Panel's existence, the paucity of available resources to support its mission hindered Panel effectiveness. There was no funding to hire research assistants, particularly those with special language skills who could have done media and Internet searches, and little ability to extend their work to important but secondary elements of investigation (such as the financial linkages that permitted an attempted export of sensitive goods to Iran). Panel members had no uniform source for training and had to develop their own substantive expertise in certain areas, which sometimes proved insufficient and resulted in less useful

analysis. The result was a dependence on external sources of information, which potentially coloured the analysis conducted by the Panel and certainly meant that the Panel was dependent on the goodwill of others to do its job. Iran's ballistic missile programme, for instance, was an area where the Panel often had to rely on official statements or external experts.

In other areas, such as conventional arms, the Panel also utilised the expertise of the private sector and groups such as the Small Arms Survey. For financial restrictions, the Panel often drew on – and contributed to – the work of the Financial Action Task Force or relied on national resources, at times also utilising somewhat unorthodox resources such as specialised banking communities on LinkedIn.

**Definitional issues complicated the work of the Panel.** The Panel was particularly challenged by Iran's attempts to acquire sensitive items that fell below export control thresholds, such as items not contained in the Nuclear Suppliers Group Dual-Use list, but which were useful nonetheless in Iran's nuclear programme. Coupled with the absence of adequate resources, the Panel had difficulty in assessing the characteristics of materials interdicted on their way to Iran. Lacking systematic access to specialised laboratories, the Panel had to rely on member states providing relevant expertise and outside experts to validate the results. With no funding to pay for outside expertise, Panel members had to rely on their own connections and friendships.

**National governments' implementation of the resolutions left much to be desired.**

Insufficient interagency cooperation on the national level also impeded the Panel's work, as enforcement agencies were often unaware of reporting requirements, even to their own foreign ministries and the Panel lacked a tool to meet directly with all the relevant bodies.

Although UNSCR 1929 mandated cooperation by member states, several did not cooperate in a satisfactory fashion. While only one state flatly refused to meet with the Panel, several others delayed to the point of a de facto refusal. As a matter of standard practice, the Panel reached out to member states through their UN missions in New York. This, however, was not always effective due to sometimes poor communication between the mission and the capital. Side channels, usually established during a previous inspection or consultation often proved to be more useful, particularly at the lower levels. In certain instances where the Panel was not able to establish such unofficial channels and the official ones were unhelpful, its investigations never produced tangible results. In such circumstances, the Panel felt, more support from the UN structures would have been helpful, as would the ability to 'name and shame' the obstinate member state in the annual reports.

The Panel might actually have had this authority but it did not dare use it due to insufficient 'moral support' by the Sanctions Committee. Early on, the Panel became 'trapped' into submitting incident reports in connection with missile launches only when a member state, through the Committee, asked for one. Here again, political dynamics played an unhelpful

role because it was easy for one member of the Committee to block any such request. The Committee also gave insufficient attention to the Panel's research on the need to update the designation list, and to its recommendations more broadly.

**The Panel's work would have benefitted by more interaction with the private sector.**

National governments often hindered the Panel's ability to conduct outreach to the private sector, including by sitting on access requests without formally denying them. At the same time, the Panel considered active outreach to the private sector to be of utmost importance as it was where, as a former Panel member put it, there was 'the most interest and the least knowledge'. The latter, to a surprising degree, could be attributed to national authorities not relaying information in an appropriate fashion. One sector in particular, freight forwarding, appeared especially deficient in its understanding of sanctions despite being involved in all crucial elements of shipping. To address this issue and reach as wide an audience as possible, the Panel often conducted its outreach through trade shows and trade industry organisation, particularly those with wide membership and well regarded globally. The UN Secretariat ought to consider doing the same.

On the other hand, **leaks of the Panel's confidential reports made member states reluctant to share certain information.** In some instances, they specifically asked for a report not to be submitted to the Sanctions Committee because of such concerns, even on a confidential basis. In some cases, these leaks led to the unofficial channels of communication collapsing, depriving the Panel of its most useful source of information.

As the Secretariat undertakes its new role in monitoring the implementation on UNSCR 2231, it will encounter many of the same issues. In several aspects, however, its work will be even more challenging, given the complexity of the resolution and the new environment created by the JCPOA, which is based on a permissive, rather than prohibitive approach. While the new cooperative environment with Iran may make some aspects of its mandate easier, some of the systemic and technical constraints will likely remain unchanged.