ECONOMIC SANCTIONS LEGISLATION

Recent experience

The sanctions against Iraq focused attention on certain limitations in the Government's legal authority available to respond quickly and decisively to international crises. When Iraq invaded Kuwait, on August 2, 1990, the United States and the United Kingdom immediately applied far-reaching economic measures to rebuke Iraq and to preserve the assets of the legitimate government of Kuwait.

However, it proved difficult for the Government of Canada to impose similar comprehensive measures. The Government has only limited authority to restrict imports, financial transactions and trade in services; to freeze assets in Canada held by another state; or to interrupt air and sea links between Canada and other states.

On August 6, 1990, the United Nations Security Council adopted resolution 661, requiring the Members of the United Nations to impose economic sanctions against Iraq and to preserve the assets of the legitimate Government of Kuwait. This resolution was adopted pursuant to Article 41 of the Charter of the United Nations and, as such, is binding in international law. It provided the legal basis for the Government of Canada to invoke the United Nations Act to apply comprehensive measures without delay.

Similarly, when the Ad Hoc Meeting of Ministers of Foreign Affairs of the Organization of American States (OAS) urged OAS Member States to freeze Haitian state assets, the Government of Canada had only limited authority to prohibit financial transactions or freeze assets of the Government of Haiti.

These are only two examples of the difficulties the Government of Canada has encountered in trying to impose effective economic sanctions under existing legislation.

Authority exists that permits the Government to take certain measures, even in the absence of a binding Security Council resolution. However, this limited authority is spread over various statutes and is cumbersome to apply.

Part III of the Emergencies Act, dealing with an international emergency, would allow the application of a broad range of sanctions. However, this Act can be invoked only in the narrowly defined circumstances of a "national emergency." In circum-stances where Canada would want to impose economic sanctions, a national emergency would probably not exist. Trade in merchandise is a good example of current problems. While exports can be readily controlled under the Export and Import Permits Act, the control of certain imports requires an "arrangement or commitment" with another country. This is not always feasible.