

doc
CA1
EA533
94P17
ENG

UNCLASSIFIED

**Department of Foreign Affairs
and International Trade**

POLICY STAFF PAPER

NO. 94/17

**Pro-Active Sanctions:
A New/Old Approach to Non-Violent Measures**

by

Dr. Nicholas Tracy
Guest Writer
Economic and Trade Policy Division (CPE)
Policy Staff

(June 1994)

Policy Staff papers are intended to foster discussion of international trends and issues by foreign policy officials. The opinions expressed are not necessarily those of the Government of Canada.

Please address any comments and questions concerning this paper to Policy Staff (CPB), Foreign Affairs and International Trade, 125 Sussex Drive, Ottawa, Ontario K1A 0G2. (Tel.: (613) 944-0367; fax: (613) 944-0375.) For copies of this paper, please contact the Department's Info Centre (BPTE) (1-800-267-8376; Ottawa region tel: (613) 944-4000 fax: (613) 996-9709) and indicate Code SP51A.

Ce document est également disponible en français.

POLICY STAFF PAPERS/DOCUMENTS DU GROUPE DES POLITIQUES

Recent Papers on Economic and Trade Policy Issues/Récents documents sur des questions économiques et de politique commerciale:

A) TRADE POLICY SERIES

1. Globalization and Public Policy in Canada: In Search of a Paradigm, by Keith H. Christie. 93/01 (January 1993) * SP19
2. Trade and the Environment: Dialogue of the Deaf or Scope for Cooperation?, by Michael Hart and Sushma Gera. 92/11 (June 1992) SP18
3. Globalization: The Impact on the Trade and Investment Dynamic, by Dennis Seebach. 93/07 (June 1993) * SP25
4. Merger Control Under Trade Liberalization: Convergence or Cooperation? by Nicolas Dimic. 93/09 (August 1993) * SP27
5. Technology Consortia: A Prisoner's Dilemma? by Rhoda Caldwell. 93/10 (August 1993) * SP28
6. Optimal Patent Term and Trade: Some Considerations on the Road Ahead by I. Prakash Sharma. 93/12 (October 1993) * SP30
7. And the Devil Take the Hindmost: The Emergence of Strategic Trade Policy by I. Prakash Sharma and Keith H. Christie. 93/14 (December 1993) * SP32
8. Stacking the Deck: Compliance and Dispute Settlement in International Environmental Agreements by Keith H. Christie. 93/15 (December 1993) * SP33
9. Financial Market Integration: The Effects on Trade and the Responses of Trade Policy, by James McCormack. 94/01 (February 1994) * SP35
10. The New Jerusalem: Globalization, Trade Liberalization, and Some Implications for Canadian Labour Policy, by Rob Stranks. 94/02 (February 1994) * SP36
11. Competition Policy Convergence: The Case of Export Cartels, by William Ehrlich and I. Prakash Sharma. 94/03 (April 1994) SP37
12. The Day After: An Agenda for Diversifying Free Trade, by Keith H. Christie. 94/04 (January 1994) * SP38
13. Global Strategies and Foreign Direct Investment: Implications for Trade and the Canadian Economy, by Julie Fujimura. 94/07 (March 1994) * SP41
14. Competition and Trade Policy Interface: Some Issues in Vertical Restraints, by I. Prakash Sharma and Prue Thomson. 94/11 (forthcoming) SP45
15. Competition Policy Convergence: Abuse of Dominant Position, by I. Prakash Sharma, Prue Thomson and Nicolas Dimic. 94/12 (forthcoming) SP46

PRO-ACTIVE SANCTIONS: A NEW/OLD APPROACH TO NON-VIOLENT MEASURES

Executive Summary	2
Résumé	3
1. Introduction	4
2. The Intent of Economic Sanctions	5
3. Sanctions in Practice	7
3.1 Food Exports to the Target State	7
3.2 Exports of Other Commodities to the Target State	10
3.3 Exports from the Target State	12
3.4 The Limited Impact of Sanctions on State Behaviour	14
3.5 Enforcement	18
3.6 Summary	21
4. The Concept of Pro-Active Sanctions	23
5. Conclusions	29

Dept. of External Affairs
Min. des Affaires extérieures

JUL 7 1994

RETURN TO DEPARTMENTAL LIBRARY
RETOURNER A LA BIBLIOTHÈQUE DU MINISTÈRE

43-267-933

Executive Summary

The coercive force of economic sanctions is generally inadequate to affect the outcome of critical, time-urgent developments in international relations. The difficulties to be overcome are so great that it may only be useful to conceive of coercive sanctions as a means of punishment and deterrence. The emphasis of United Nations efforts has shifted to what amounts to economic warfare, or quasi-warfare. The centre piece in this strategy has been embargoes placed on the sale of arms, and on the transfer of advanced technology. Economic sanctions have also acquired the political functions within the world community of registering protest, at times of deflecting pressure for other forms of action, and at others of crystallizing a collective response to violations of international peace and morality. These political and symbolic functions of sanctions, however, tend to defeat the ostensible purpose of providing a non-violent means of managing world affairs. Perhaps most disturbing is the idea that the imposition of sanctions could become nothing more than a political formula to overcome a public reluctance to countenance official violence.

Study of the history of economic warfare suggests that new forms of multilaterally approved sanctions could play a useful role in international affairs as pro-active forces with political and economic mechanisms which do not depend inherently upon fuller-scope coercion for their consummation. The mercantilist principle found some place in a 19th century practice known as "pacific blockade" which used a naval blockade to promote limited purposes without resort to war and without abandoning the advantages of a non-belligerent relationship. It is worth considering the possibility that a new system of sanctions analogous to the forms of mercantilist trade war and pacific blockade should be added to the arsenal of the United Nations, a system employing money to halt or reverse the problem created by the target state. The trade embargo could be replaced in part by a tax placed on the target state's imports and exports set by the United Nations at the level which generated maximum revenue. The funds so raised would be employed to promote the United Nations agenda. Although such a tax would inevitably reduce the flow of trade from and to the target state, employment of the revenue generated by it for commercial and aid projects could restore a large part of the lost volume of world trade, and create opportunities for international business to recover lost profits by pursuit of new investment opportunities.

Résumé

La force coercitive des sanctions économiques ne suffit généralement pas à influencer l'évolution de situations critiques et urgentes dans le domaine des relations internationales. Les difficultés à surmonter sont tellement importantes que ces sanctions coercitives ne peuvent servir qu'à punir et à dissuader. Les Nations Unies concentrent maintenant leurs efforts sur ce qu'il convient d'appeler la guerre ou la quasi-guerre économique. Au coeur de cette stratégie se trouvent les embargos sur les ventes d'armes et sur le transfert de technologies de pointe. Les sanctions économiques remplissent également des fonctions politiques, en ce qu'elles permettent à la communauté internationale de manifester sa désapprobation, de contourner à certains moments les pressions en faveur d'autres moyens d'action et de cristalliser, à d'autres, la réaction collective en cas de violations de la paix et des valeurs internationales. Toutefois, ces fonctions politiques et symboliques vont à l'encontre d'un prétendu objectif, la gestion non violente des affaires internationales. Pire encore est l'idée que l'imposition de sanctions pourrait devenir rien de plus qu'une formule politique pour surmonter la réticence du public à approuver la violence officielle.

Nous apprenons, en étudiant l'histoire des guerres économiques, qu'il pourrait être utile d'appliquer aux affaires internationales de nouvelles formes de sanctions multilatérales de nature proactive et dotées de mécanismes politiques et économiques ne reposant pas sur une coercition d'envergure. Au XIX^e siècle, le principe du mercantilisme sous-tendait la pratique du «blocus pacifique», où l'on employait le blocus naval pour atteindre certains buts sans recourir à la guerre ni renoncer aux avantages d'une relation non belligérante. Il conviendrait d'envisager d'ajouter à l'arsenal des Nations Unies un nouveau système de sanctions inspirées par la guerre commerciale mercantiliste et le blocus pacifique, système utilisant l'argent pour enrayer ou renverser une situation problème créée par un État donné. Une taxe sur les importations et les exportations du pays en question, fixée par les Nations Unies au niveau devant produire les recettes les plus élevées possibles, pourrait remplacer en partie l'embargo commercial. L'argent ainsi recueilli servirait à promouvoir le programme des Nations Unies. Une telle taxe aurait inévitablement pour effet de réduire les exportations et les importations de ce pays. En revanche, l'attribution des recettes générées à des projets d'aide et à des initiatives commerciales pourrait compenser une bonne part des échanges mondiaux ainsi supprimés et créer de nouvelles possibilités d'investissement à l'échelle internationale permettant de récupérer les profits perdus.

1. Introduction

Economic sanctions have acquired the political function within the world community of registering protest against the behaviour of other states, at times of deflecting pressure for other forms of action and at others of crystallizing a collective response to violations of international peace and morality. The decision to impose a sanctions regime may be the result of compliance with public demand, which may have been expressed in the form of petitions, demonstrations and lobbying over a prolonged period of time. Imposition of sanctions may also be formative of public attitudes. Agreement by national governments at the United Nations to implement a sanctions regime establishes the fact of collective action, and tests public determination within member states. These political and symbolic functions of sanctions, however, tend to defeat the ostensible purpose of providing a non-violent means of managing world affairs.

Perhaps most disturbing is the idea that the imposition of sanctions could become nothing more than a political formula to overcome a public reluctance to countenance official violence. This cynical approach to sanctions appeared to some to have been employed in the 1990 Kuwait crisis. The disjunction between means (including what some saw as inadequate time allowed within which to judge the effectiveness of sanctions) and declared ends suggested a thesis that the underlying political purpose of coalition diplomacy was to ensure that the opportunity was not lost of destroying Iraq's military potential. Sir Crispin Tickell, the British Ambassador to the United Nations until mid August 1990, specifically denied that this was the intent when he addressed the Security Council on 6 August: "economic sanctions should not be regarded as a prelude to anything else. Here I obviously refer to military action."¹ Abu Hassan, the Foreign Minister of Malaysia, was not convinced. He asked whether the United Nations was "moving at this speed to make sanctions effective, or are we readying ourselves early for a situation where we will conclude that sanctions are not effective and that other measures must therefore be taken?"² The public was not provided with any evidence by the 15 January 1991 deadline, set by Security Council resolution 678 of 29 November 1990, which could support a belief that economic sanctions were having a coercive effect on the Iraqi government. This could be taken either as support for, or as a convincing case against, the belief that sanctions were manipulated by the great powers. Whatever the intent, however, sanctions did in fact, as they not infrequently do, constitute a transitional phase before resort to violence.

¹ United Nations, Security Council Verbatim Reports, hereafter SCVR, Provisional, 6 August S/PV 2933 - discussion of document S/21441

² SCVR, Provisional, 25 September 1990, S/PV.2943

Relegation of economic sanctions to this political function would be an admission of failure, and would be rather precipitant. It would be wrong to dismiss the concept of economic sanctions without first questioning whether the assumptions upon which they are based could be usefully developed, and whether the *modus operandi* needs alteration. The history of economic warfare, not just in this century nor even in the last two, but over the span of modern times, suggests that there are old ideas which can be applied to the new context.³

2. The Intent of Economic Sanctions

The intent of the League of Nations and the United Nations has been to develop economic sanctions as a coercive instrument, capable of forcing target governments into altering policies which are offensive to the world community. The strategic mode is consistent with Sir James Cable's description of "purposeful force," a label which he coined for military action which "does not itself do anything: it induces someone else to take a decision which would not otherwise have been taken."⁴ Typically, measures of "purposeful force" require much more sophisticated application of power than is the case where military action, if only it be strong enough, can directly achieve the goal. Indirect means are inevitably less efficient. To be effective as a coercive force, economic sanctions must create political pressure on an influential person or persons in the target government, and they must do so in a way which facilitates compliance.

To fulfil this purpose, economic sanctions have conformed to ideas of economic warfare which were largely developed subsequent to the wars of the French Revolution and Empire, but which have antecedents in the non-importation movement of the American Revolution and the American government's "Non-Importation Act" of 1807 prohibiting most British imports, the later "Embargo" act against all foreign trade, and the "Non-Intercourse" act of 1809 banning trade only with France and Britain.⁵ The Confederate States employed the idea of embargoing cotton with the hope that Britain would be obliged to recognize their independence, out of fear that unemployed mill hands

³ This study grows out of my work on economic warfare, which was published as Attack on Maritime Trade, (Macmillan U.K. and the University of Toronto Press, 1991).

⁴ James Cable, Gunboat Diplomacy, (London, 1971), p. 40.

⁵ W. Alison Phillips and Arthur H. Reede, Neutrality, (New York, c. 1935), II, "The Napoleonic Period," pp. 91-125; Anna Cornelia Clauder, American Commerce as Affected by the Wars of the French Revolution and Napoleon, 1793-1812, (Philadelphia, 1932), pp. 27-38; Robert Greenhalgh Albion with Jennie Barnes Pope, Sea Lanes in Wartime, (U.S.A., 1968), p. 75; and Robin Renwick, Economic Sanctions; Harvard Studies in International Affairs Number 45, Harvard (1981), pp. 4-8.

would revolt. The Confederacy was disappointed in its hope: the solidarity of the mill hands with the anti-slavery Union government was a formative influence on the thinking of Karl Marx.⁶ The strategic idea of coercion by denial of supply, however, survived nonetheless. This may have been because the Union employed economic blockade against the Confederacy. One of the officers who served in the United States Navy's blockade squadrons was Alfred Thayer Mahan who became the great apologist for "seapower" which he saw primarily as the capacity of navies to control trade.⁷ Following the Civil War the *Jeune Ecole* of the French Navy developed a plan to use that strategy against Britain.⁸

The idea of the League of Nations Union in 1918 was that the political mechanism of economic sanctions would be a product of their capacity to convey to the people of the target state the disapproval of the world. It was expected that an aroused public would compel their government to bow to the demand of the world community. This mechanism of coercion was referred to by Judge William Webster, the Director of the American Central Intelligence Agency, in his brief to the United States Senate on 7 December 1990 about the sanctions which had been imposed on Iraq by the United Nations following the invasion of Kuwait. He said that "economic sanctions and the embargo against Iraq have put Saddam Hussein on notice that he is isolated from the world community."⁹

If the disapprobation of the international community does not mobilize the people of the target state into compelling their government to change its policies, economic sanctions must depend for its coercive force upon persuading the political leadership that it must make concessions to avert economic catastrophe, for themselves personally if not for their country. Ideally, economic warfare as a means of coercion should be carefully focused on those people within a state who have the capacity to influence policy. This ideal calls for a degree of sophistication which in practice is elusive.

⁶ F.L. Owsley, King Cotton Diplomacy, (Chicago, 1969), pp. 1-50, 134-42; and Philip S. Foner, British Labour and The American Civil War, (New York, 1981), pp. 4-5, 11-24 *et passim*..

⁷ "Incidents of War and Blockade Service", in Alfred Thayer Mahan, From Sail to Steam, (New York, 1968), pp. 156-95.

⁸ Marder, The Anatomy of British Sea Power: A History of British Naval Policy in the Pre-Dreadnaught Era, 1880-1905, (Hamden, Conn., 1964) pp. 86-91 *et. seq.*

⁹ Report for the 101st Congress, Friday December 7, 1990 5:40 EST.

3. Sanctions in Practice

3.1 Food Exports to the Target State

The targeting of food, as an attack on public health, is the most obvious way of giving economic warfare a high public profile. In response to the Iraqi aggression against Kuwait, the United Nations Security Council passed resolution 661 (2 August 1990) banning all trade with Iraq and occupied Kuwait, both imports and exports, with the exception of medicines and foods required for humanitarian relief. Resolution 670 extended the controls to the airways, and resolution 678 made it clear that "all necessary means" might be employed to enforce the sanctions. A sanctions committee, the "661 committee," was established to determine when exceptions should be made to the comprehensive sanctions regime, but it was a cumbersome body which worked by a unanimity rule that prevented its having much impact on the conduct of control operations. The proviso that food for humanitarian purposes should be permitted to pass was eliminated by the hard policy of coalition states which led to the adoption of resolution 666 limiting the distribution of food to United Nations approved agencies, which did not in fact have access to Iraq.

The study made by Mancur Olson published 28 years ago, however, showed how poor a target food is for economic warfare.¹⁰ Direct and indirect substitution can reduce import requirements to a low level. Famine is only likely to overtake a substantial state as a result of its administrative failure, as happened in areas of Germany in the winters of 1916 and 1917, and in Japan in 1945. In contrast, the British government proved itself adroit in two world wars in managing the problem of consumption control and substitution. Even when famine has resulted from food control, historic precedent does not suggest that its political results will be useful. Famine alone was not enough to persuade the Japanese government to surrender to allied forces. It is because blockade of food

¹⁰ Mancur Olson Jr., The Economics of Wartime Shortage, (Durham N.C., 1963). The British official historian of the blockade of Germany in the First World War, A.C. Bell, was convinced that food shortages in Germany was the factor that led to the collapse of the Kaiser's government and the decision to seek an armistice. The Secretary of the Committee of Imperial Defence, Maurice Hankey, ensured that Britain made no concessions during the interwar years which could reduce the right of belligerents to employ navies to strangle the economic life of nations. The evidence does not really support the thesis that Imperial Germany was defeated by the "hunger blockade," although there is plenty of evidence that it was formative of Hitler's determination to smash the democracies and occupy the Ukrainian wheat lands. A.C. Bell, A History of the Blockade of Germany 1914-1918, (London, 1937), p. 689; PRO CAB 21/307, Maurice Hankey's Memorandum on Blockade and the Laws of War, Appendix; W.N. Medicott, The Economic Blockade, (London, 1952), II, p. 641; and my own Attack on Maritime Trade, (Macmillan and University of Toronto Presses, 1991), pp. 143-8.

intended for the general public of a major state had proved to be a useless cruelty that international convention had made it an illegal means of warfare.¹¹

During the debate in the Security Council on 25 August discussing Resolution 665 authorizing the use of force against Iraq, Alarcón de Quesada, the ambassador for Cuba, declared that "no action or decision adopted or to be adopted by this Council can give it the political, legal or moral authority to undertake any kind of action that is in itself inhuman."¹² Three days later, at a meeting of the 661 committee, he attempted to persuade his fellow ambassadors that the term "humanitarian circumstances" should be interpreted not only as applying to a need to avert imminent death, but also "where withholding food could have long-term effects - on the growth or mental development of children for example."¹³ Mr. Richardson, the British Ambassador, objected: "If the Security Council had intended to exempt foodstuffs systematically", it would not have included the proviso "in humanitarian circumstances". On 7 September the chairman of the committee, Marjatta Rasi, wrote to the Secretary-General: "All the members of the Committee shared the view that resolution 661 (1990) must be implemented without creating conditions of starvation in Iraq and Kuwait." The non-aligned nations did not have the power enjoyed by the United States as a neutral in the world wars, and were not in fact able to protect the legal right of civilians to food supplies. The ambiguity in which the legal status of food control was left, however, ensured that food supplies to the states bordering Iraq were not rationed, and that Iran, Jordan, Syria and the Lebanon permitted Iraqis to purchase food in their villages and carry it home. Only after the start of the air battle was the road from Jordan closed, by bombing civilian truckers.

¹¹ The Declaration of Paris of 1856 guaranteed free importation in neutral shipping except where a port was closely blockaded by enemy forces or the goods were contraband, and the unratified Declaration of London specifically acknowledged that food intended for the general public could not be considered as contraband. In the later stages of the First World War, Britain effectively blockaded food, but a Committee of Imperial Defence sub-committee set up in 1923 to study the question of belligerent rights acknowledged that food control had only been justified as an act of reprisal. CAB 15/21 Committee of Imperial Defence; Standing Sub-Committee on the Co-ordination of Departmental Action on the Outbreak of War; Report of Sub-Committee on Trading, Blockade and Enemy Shipping, 30 May 1923. The United States government was in the forefront of efforts to restrict belligerent rights. President Hoover, who had been responsible for American food relief to Europe before 1917 and after the armistice in November 1918, tried hard in 1929-30 to reestablish the immunity of food ships from attack. H.C. Hoover, The Memoirs of Herbert Hoover, (New York, 1951-2), vol II, 342. See also ADM 116/2686, Esme Howard to Austen Chamberlain, 9 May 1929; and *passim*.

¹² SCVR, Provisional, 25 August S/PV 2938 discussion of draft resolution S/21640 (resolution 665)

¹³ United Nations, Provisional Summary Record of the 4th Meeting of the 661 Committee, 28 August 1990. S/AC.25/S2.4

The evidence is that Iraq in 1990-91 did suffer from the blockade of food supplies. Following the war a study conducted by the Harvard School of Public Health, using statistics from house to house surveys, concluded that infantile mortality rates had more than tripled, to 80 per 1000, as a result of the war and revolt. An estimated 46,900 children under 5 died in Iraq between January and August 1991, in excess of the peacetime expectation of infantile mortality.¹⁴ This suffering, however, did not bring the Iraqi government to change its policies. The conclusion that food control was not an effective means of coercing the Iraqi government is reinforced by its decision not to take advantage of Security Council Resolution 706 of 15 August 1991 which partly lifted the control of exports, permitting Iraq to sell \$1.6 billion worth of oil to pay for essential supplies, providing international humanitarian organizations were given control of distribution.

All the inclusion of food control in the United Nations sanctions against Iraq served to do was to undermine the consensus which existed as to the need to respond to aggression. Although the protests of the ambassadors of Cuba, the Yemen, and Colombia were dismissed by the great powers, they found ready echoes in public opinion. Following the liberation of Kuwait, the Security Council eliminated controls on food shipment to Iraq, without, however, being able to put an end to the famine.¹⁵

The sanctions imposed on Haiti by the Organization of American States, and later by the United Nations, have not included a blockade of food, but Haitian poverty was so exacerbated by the sanctions that famine has resulted, killing 1000 young children in Haiti per month. Famine, however, proved to have little capacity to persuade the illegal Haitian regime to comply with United Nations resolutions.¹⁶

It would be wrong, however, to dismiss entirely the capacity of food control to influence the behaviour of weakened states, providing the political consequences can be

¹⁴ The destruction of sanitation systems by direct bombing was one of the main causes of the loss of life, but the highest mortality rates were in the Kurdish north of Iraq followed by the Shiite south. In neither area was bombing extensive and the higher death rate must have been caused by the revolts against the Baathist regime, and by the effects of the sanctions which the residents of Baghdad were better able to offset because of their access to the black economy. Alberto Archerio, et al., "The Effect of the Gulf War on Infant and Child Mortality in Iraq," New England Journal of Medicine, 23 September 1992 (1992;327:931-6); and see Globe and Mail, 22 October 1991 and 24 September 1992.

¹⁵ SC Resolution 687, 22 March 1991. See: United States Congress, House of Representatives International task Force Select Committee on Hunger, 1 August 1991.

¹⁶ "Sanctions and Spoons," Time, 22 November 1993, p. 32.. Statistics are derived from a study by the Harvard University Center for Population and Development Studies.

managed. During the last years of the First World War, the United States used control of wheat to oblige Switzerland to make its merchant shipping available for the war effort. The capacity to supply Germany with food during the winter of 1918-19, when the German government was unable to make payments because of the refusal of France to authorize the use of German gold, was used to hasten the signing of the Versailles peace treaty, with results which ultimately back-fired.¹⁷ Food has not been made part of the United Nations sanctions imposed by Security Council resolution number 757, 30 May 1992, on Serbia, but the capacity of Serbians to pay for imports has been attacked by the ban on its export trade.¹⁸ The effect of this is to preempt a strategy which might otherwise have been used by the belligerents, and to strengthen, if only slightly, the position of the peacemakers. All parties to the civil war have become dependent on foreign relief, and that has given the international community some capacity to dampen the parricide.

3.2 Exports of Other Commodities to the Target State

Embargoes on the export to a target state of commodities other than food has a lower public profile, and circumstances determine how rapidly they may produce significant economic strains. The League of Nation's sanctions in 1935 against Italy only embargoed a limited range of commodities which were supplied to Italy by League members. Canada's representative on the Sanctions Committee, Dr. W.A. Riddell, proposed that the sanctions should be made effective by the inclusion of oil in the list of prohibited trade, but Mussolini responded with a threat that "oil sanctions mean war," and French Prime Minister Laval led the retreat. Canadian Prime Minister Mackenzie King repudiated Riddell's suggestion as unauthorized.¹⁹

In January 1939, the United States government ordered a "moral embargo" to discourage the sale of aircraft to Japan as a beginning to a graduated effort to stop the Japanese takeover of China. In February, there was a cessation of credits to Japan, and in July formal notice was given of the intention in six months to abrogate the 1911 commercial treaty. In July 1940, an export licensing system was established, but only

¹⁷ James A. Huston, "Allied Blockade of Germany 1918-19," Journal of Central European Affairs, 10 (1950) pp. 145-66; S.L. Bane and R.H. Lutz, eds., The Blockade of Germany after the Armistice, 1918-1919, Selected Documents. (Stanford, California, 1942).

¹⁸ United States, Department of State, Dispatch, 3/23 (June 8 1992) item number 448; and see SCVR, S/PV 3082, 30 May 1992.

¹⁹ Robin Renwick, *op. cit.*, pp. 9-24; Lester B. Pearson, Mike, The Memoirs of the Right Honourable Lester B. Pearson, (Toronto: University of Toronto Press, 1972), vol. 1, pp. 92-102; and John A. Munro, "The Riddell Affair Reconsidered," External Affairs, 1939, pp. 366-75.

some categories of petroleum distillates and ferrous metals were placed under control. These measures were intended to deny the Japanese armed forces essential supplies, as well as being intended to create economic pressure. Their limitations kept the embargoes from being a *causus bellum*, but, in general, they were counter-productive. Japanese aggression continued, and in July 1941 President Roosevelt froze all Japanese assets in the United States, effectively cutting off Japan from American oil, which at the time was 59% of the world supply. Possessing as it did an 18-month reserve stock of oil for naval war purposes, the Japanese government saw itself as presented with a deadline. The U.S. government believed that Japan would recognize that capitulation was unavoidable. Instead, the Japanese decided to use violent means to obtain control of the East Indian oil fields, and cleared the way by launching surprise attacks on the American fleet at Pearl Harbour and on U.S. and British bases in Asia.

Following the end of the Second World War control of oil has been used on several occasions as a coercive force, but with only limited success. The oil exporting nations of the Middle East attempted to use an embargo in 1967 to compel the United States, Britain and West Germany to enforce United Nations sanctions against Israel, but in the end their efforts collapsed. Oil was included in the sanctions which the United Kingdom government was persuaded in 1965 to impose on the rebellious colony of Southern Rhodesia, in order to compel Ian Smith's Rhodesian Front party to establish a multi-racial government. For twelve years this proved ineffective, partly because of the open border with the Republic of South Africa. Finally, in 1978 South Africa's own difficulties in obtaining oil were intensified by the revolution in Iran. The implications for Rhodesia were self-evident. The oil crisis catalyzed the pressure caused by the growing economic and human cost of the sanctions and of guerrilla warfare within Rhodesia. After several conferences in London, a British governor flew to Salisbury to administer the transfer of power at the end of 1979.²⁰

3.3 Exports from the Target State

The coercive impact of economic pressure on the export trade of the target state has only a modestly better track record. The Declaration of Paris of 1856 banned attacks on exports, if they were transported in neutral carriers, but the experience of the world wars shows that exports may be the more important target. The British government eventually ordered action against German exports in both wars, but only as acts of reprisal "justified" by German infringement of the laws of war.²¹ The League sanctions

²⁰ M. Bailey, Oilgate, the Sanctions Scandal, (London, 1979), pp 110, 174 and 190; and Harry R. Strack, Sanctions, The Case of Rhodesia, (Syracuse: Syracuse University Press, 1978), pp 24-33, 89.

²¹ Frits Kalshoven, Belligerent Reprisals, pp. 156-60.

against Italy during the Ethiopian war focused on blocking Italy's export trade, and access to international finance. The impact on the Italian economy was considerable. In February 1936, Italian exports were half the level of the previous February. Between November 1935 and June 1936, Italy lost over US \$93 million in gold.²² However, the result was not capitulation. Italians responded with a surge of patriotism and private donations of gold.

The successful American action during the Suez Crisis of 1957, blocking the UK's access to the International Monetary Fund and thereby undermining the stability of the British currency, was very much an exceptional event in world affairs. The British government, which was also under pressure from the threat of Soviet military action, accepted a compromise solution suggested by the Canadian prime minister, Lester Pearson.²³

The principal focus of the sanctions ordered by the British government in 1965 against Rhodesia was on Rhodesian exports, to generate a fiscal crisis, and to alienate Rhodesia's tobacco farmers who, it was hoped, would withdraw their support for UDI. Over a third of Rhodesia's gross domestic product came from exports, of which the tobacco crop constituted a third, of which half went to the United Kingdom. In the short term, the strategy was ineffectual, because the farmers were too dependent on the Rhodesian Front to be able to change their politics. Rhodesia's capitalists had little influence in Smith's government, and that little was further reduced by the political cohesion perversely generated by sanctions.²⁴ Under the stimulus of siege conditions, Rhodesia was able to replace foreign trade by developing industries servicing the home market. The Rhodesian economy continued to expand in real terms until 1976.²⁵ In the longer term, however, the export sanctions played their part in the collapse of Smith's regime. From 1972, civil war increasingly stressed the Rhodesian economy and the

²² Robin Renwick, *op. cit.*, tables I to V.

²³ See Diane B. Kunz, The Economic Diplomacy of the Suez Crisis, *passim.*, (Chapel Hill, University of North Carolina Press, c. 1991); my Attack on Maritime Trade, pp.????; Peter Wright, Spy Catcher. The Candid Autobiography of a Senior Intelligence Officer, (New York: Viking, 1987), p.85; and Robin Renwick, *op. cit.*, pp. 61-4.

²⁴ Douglas G. Anglin, "United Nations Economic Sanctions Against South Africa and Rhodesia," in David Leyton-Brown, ed., The Utility of International Economic Sanctions, (London: Croom Helm, 1987), pp. 23-58.

²⁵ Robin Renwick, *op. cit.*, tables VI to XIII.

shortage of foreign exchange prevented capital renewal.²⁶ In 1980, following the agreement of the Smith regime to constitutional reconstruction, The Economist concluded that: "It was Rhodesia's inability to raise long-term credit on the international capital market that put the biggest economic strain on its resources and this, together with the civil war, brought its recalcitrant politicians to the negotiating table."²⁷

Revenues earned from exports was also a principal focus of the sanctions directed against Iraq during the Kuwait crisis. The oil pipelines running through Turkey and Saudi Arabia were shut down, and the tanker terminals in Iraq and Kuwait were blockaded. Judge Webster made the observation in his 1991 Senate briefing that control of Iraqi exports during the Kuwait crisis, by creating a fiscal crisis for Bagdad, appeared to be having a greater effect than was the high profile control on food imports. However, it appears that Bagdad had access to a great deal more money than it had been thought to control, possibly as a result of lifting all monetary controls on its citizens who thereby became free to use the black economy to arrange private imports. Import controls on food were rescinded immediately after the liberation of Kuwait, but Iraqi exports continued to be blocked pending full implementation of Security Council Resolution 687 which laid down conditions for the ceasefire. These included the payment of reparations. Iraq's refusal to do so, however, may be regarded as effectively disposing of any argument that Iraq could be constrained by fiscal pressure, and the refusal to take advantage of Resolution 706 partly lifting the control of exports to pay for food imports adds to that impression.

Complementary to action against exports is a ban on investment in the target state, and against credits for imports. In 1964, for instance, the Japanese government forbade its nationals and corporations making direct investment in the Republic of South Africa. United States sanctions on Poland in 1981 following the imposition of martial law included a ban on export credit insurance and a stop to further governmental credits, and European Community nations banned governmental loans to Poland. It has been difficult, however, to persuade nations which must export to maintain their standard of living to

²⁶ It had been recognized as long ago as 1934, by Admiral Sir Herbert Richmond, that states are much more vulnerable to economic warfare if they were obliged to support the cost of active military operations. "The financial needs and demands of the nations increase vastly", in Sea Power in the Modern World, (London, 1934), pp. 71-2.

²⁷ 19 July 1980, p. 16. See also Robin Renwick, *op. cit.*, pp. 25-58.

refuse credit sales. In 1979, for instance, neither Canada nor Great Britain agreed to ban export credits to the Soviet Union following the invasion of Afghanistan.²⁸

3.4 The Limited Impact of Sanctions on State Behaviour

The limitations to the coercive capacity of economic sanctions which were evident in the League action against Italy in 1935, the American government's export controls on Japan in the period 1939-1941, and the United Nations actions against Rhodesia and Iraq, must be accepted as a norm. The exceptional success of the fiscal pressure put on Great Britain during the Suez crisis is at least partly explained by the facts that the British government was offered a way out of its dilemma, and that it was dependent upon an electorate which was sensitive to moral argument and to threats to their wealth. More typical was the experience of the Kuwait crisis. Secretary of State James Baker's statement to the United States Senate, in December 1990, that sanctions, to be valuable, would have to "hurt Iraq so much that Saddam Hussein changes his behaviour and withdraws from Kuwait," indicates that he was formulating his policy in the belief that economic pressure directed indiscriminately at a target state should have the power to coerce hostile governments. The progress of the Kuwait crisis, however, did not substantiate his expectation. Economic pressure did not, and perhaps could not in the Iraqi case, obviate violent resolution of the crisis.

The weakness of sanctions as a coercive force is that it depends upon a concept of the state as an organic whole that would have satisfied 17th century constitutional theorists but which is imperfectly represented in the real world. The capacity of the general public to determine the behaviour of their governments is limited even in countries with representative democratic constitutions, and is very limited in governments controlled by a social oligarchy or a totalitarian political party. At the same time, however, even despotic governments depend for survival upon a balancing act between the powerful forces within society, and are not fully free to develop policies which do not find some level of approval by consensus amongst the elite, and even in the street. They may have little capacity to get unpopular policies carried out, and they may risk violent revolt if they demand compliance. Perhaps most ironically, in the case of foreign-imposed sanctions, they may be unable to pursue policies which are tainted by their origin outside the state: the concepts of race and sovereignty are still so strong that people are extremely unwilling to accept the demands of institutions or governments which are alien.

²⁸ Sergio Roca, "Economic Sanctions Against Cuba"; Peggy L. Falkenheim, "Post-Afghanistan Sanctions"; and Paul Marantz, "Sanctions in the Polish Crisis", all in David Leyton-Brown, ed., The Utility of International Economic Sanctions, pp. 87-130.

The capacity of sanctions to persuade the people of a target state to compel their government to comply with international standards proved to be quite empty when in 1937 the League imposed sanctions on Italy in the hope of stopping the invasion of Ethiopia. The force of patriotism, and the capacity of the fascist government to intimidate the Italian people, was too great. The sanctions imposed on the Soviet Union by the Carter administration in 1979 following the invasion of Afghanistan were no more effective. A Soviet trade official, V. Malkevich, wrote at the time that "no one has yet succeeded in influencing the home or foreign policy of the USSR by means of economic blackmail, discrimination, or *diktat*. If it ever had any effect, moreover, it has been simply the opposite of the one counted on: tension between countries always forces each of them to harden its position."²⁹ In societies which are freer than was fascist Italy or the Soviet Union, the general public may constitute an important linkage connecting economic sanctions to policy formulation, but it is surprising that President Bush had any hope that the people of Iraq could compel Saddam Hussein's government to change its policies. From public knowledge of President Saddam Hussein's character and of that of the Baath party, there was no reason to believe that they were likely to be receptive to public complaints. Judge Webster made clear his belief that economic sanctions would not lead to revolt:

Services ranging from medical care to sanitation have been curtailed in Iraq. But these hardships are easier for Iraqis to endure than the combination of economic distress, high casualty rates and repeated missile and air attacks that Iraqis lived with during the eight year Iran-Iraq War. During this war incidentally, there was not a single significant public disturbance, even though casualties hit 2.3 percent of the Iraqi population.³⁰

Even a month of intense bombing did not lead to spontaneous revolt. On 15 February 1991, President Bush, frustrated by the refusal of the Iraq government to comply with the United Nations demands, called upon "the Iraqi military and the Iraqi people to take matters into their own hands, to force Saddam Hussein, the dictator, to step aside and to comply with the UN resolutions and then rejoin the family of peace-loving nations."³¹ This invitation was eventually taken up by the Kurdish and Shiite minorities,

²⁹ V. Malkevich, East-West Economic Cooperation and Technological Exchange, (Moscow: Academy of Sciences, 1981), p. 14 (as quoted by Peggy L. Falkenheim, *loc cit.*)

³⁰ Report for the 101st Congress, Friday December 7, 1990 5:40 EST.

³¹ United States, Department of State, Dispatch, 2/3 (21 January 1991), p. 37. Speech to the American Association for the Advancement of Science.

but not until the ground assault was under way with its suggestion that the rebels would obtain the support they needed.³²

One of the many reasons why sanctions were ineffective in bringing about the withdrawal of Iraqi forces from Kuwait is that the diplomatic practice of the coalition states was contrary to effective economic coercion. Economic sanctions, conceived as a means of coercion, should form a part of a creative diplomatic *démarche*. The psychology should be that employed by a sophisticated police force in talking a violent man out of a hostage-taking incident. The force arrayed should be massive, but a bridge must be built for surrender. As Sir Julian Corbett put it, the pressure of naval action is "tedious . . . unless it be nicely coordinated with military and diplomatic pressure."³³ Careful attention must be given to the restraints there may be on the freedom of the target government to implement policy changes. It may, in fact, be preferable to minimize the public profile of the sanctions regime, for example by curtailing exports from the target country and financial transactions. Control of exports from rather than exports to the target country possesses a lower political profile, because it is not life-threatening in the short term, which may make it easier for the target government to bow to the pressure. It is a book-keepers' war, which makes it difficult but not impossible for the target government to purchase its requirements and injures industrial interests. The extent of this distinction, however, depends on the degree of vulnerability of the target state. Control of the exports of a small island such as Haiti can rapidly deepen the conditions of poverty and hunger, although this may well not lead to the desired change in state behaviour through at least the medium term as the depressing Haitian case continues to demonstrate.

In the Kuwait crisis, the practice of western leaders of treating the President of Iraq, Saddam Hussein, with open contempt was not well judged for achieving the best results from efforts of coercion. The coalition of states implementing the United Nations resolutions were adamant in their refusal to make concessions that might facilitate Iraqi submission. At a news conference in Paris in November 1990, Secretary Baker said that coalition leaders were united in their conviction that there must be no partial solutions. "In no way should Saddam Hussein be rewarded or be seen to be being rewarded for his aggression."³⁴ Baker, and the other coalition leaders, insisted that "partial solutions would set a very unfortunate precedent. It would set the precedent that aggression pays."³⁵ In

³² See The Globe and Mail, 4 April 1991.

³³ Sir Julian S. Corbett, England in the Seven Years War, (London, 1907), pp. 5-6.

³⁴ United States, Department of State, Dispatch, 1/12 (19 November 1990) p. 273.

³⁵ Secretary Baker's answers at a news conference, New York City, 29 November 1990, p. 299.

January 1991, he told a reporter for ABC-TV that he had "been pursuing a carrot-and-stick policy here. The carrot is, if he [i.e., Saddam Hussein] withdraws completely and unconditionally from Kuwait, he doesn't get the stick."³⁶ The unbending attitude, perhaps appropriate in the circumstances, ensured that economic sanctions, at least in the form they were implemented, were an inappropriate strategy for the occasion. Coalition leaders were intent on maximizing Saddam Hussein's humiliation so as to deter other aggressors, and were prepared to adopt violent means to achieve that goal.

Moreover, the nature of the Iraqi government provided little opportunity for finesse in focusing the sanctions regime. It appears that those Iraqi businessmen with most influence were content to make personal profits by using their position in the party to manipulate the black market, which may actually have been facilitated by the sanctions regime. Similarly, the profiteering enjoyed by the current *de facto* rulers in Haiti underlines this lesson. It is problematic whether increased sophistication in the management of sanctions could be counted on to produce significantly more effective coercion, except where there are unusually strong cultural and historical reasons at work within the target state in favour of compliance, as there were during the Suez crisis.

Another partial explanation of the failure of the sanctions employed against Iraq is that time measured in months is short for economic controls to achieve results. In 1966 Prime Minister Wilson confidently declared that Rhodesia would be forced to abandon its rebellion by sanctions in a matter of "weeks not months." However, the rebellion lasted 14 years and the impact of sanctions was only a contributory factor in the final denouement. This experience was noted somewhat sarcastically in the Security Council in 1990 by ambassador Al-Ashtal of Yemen when opposing the passage of resolution 678:

It is a little surprising that those who used to lecture us on the need to be patient for sanctions to work when they had to do with Rhodesia or South Africa are today in such a hurry to declare that those comprehensive and enforceable sanctions imposed on Iraq are simply not working. For sanctions to work and force Iraq to implement resolutions of the Security Council we need patience.³⁷

The use which had been made of large scale troop deployments to the Gulf in the hope of intimidating the Iraq government created technical and political problems which made it impossible to delay the start of land operations much beyond the deadline date of 15 January. In effect, the efforts at psychological warfare necessarily aborted those

³⁶ United States, Department of State, *Dispatch* 2/1 (17 January 1991).

³⁷ SCVR, Provisional, 29 November S/PV 2963.

of economic warfare, but in any case the predominant voice of collective world opinion was that the crisis should be resolved as rapidly as possible to forestall irreversible destruction of the Kuwaiti state.

3.5 Enforcement

Sanctions enforcement in the Kuwait crisis was fairly effective, largely because of the extent of support throughout the world for the United Nations operation, although there was some unhappiness in the Security Council about the extent to which control of United Nations operations had been "privatized," in the words of the Cuban ambassador.³⁸ Member nations enforced their own export and import controls, and the pipelines from Iraqi oil fields were shut down where they crossed into Saudi Arabia and Turkey. Moreover, naval forces from a coalition of states were used to monitor enforcement by controlling the shipping entering and leaving Iraqi seaports and those seaports in close land contact with Iraq. The Canadian navy made 25% of the interceptions. No systematic effort was made to ration the imports into neighbouring countries of civilian supplies, but it appears that the limited traffic that crossed into Iraq was consistent with the provision that food and medicine should be permitted Iraq for humanitarian purposes. The importance to international business of restoring Kuwait as an independent state, and of preventing Iraq from acquiring control of additional middle eastern oil resources, discouraged any attempt to make quick profits by smuggling oil out of Iraq.

In the longer span of the history of the United Nations and League of Nations sanctions, however, enforcement has been a major problem, because sanctions have created major problems for international commerce and for the national economies based on it. The problem of control is identical to that experienced in the belligerent use of blockade. The discussion which led to the Declaration of London in 1911 defining "contraband" was heavily influenced by the needs of trading nations which might be neutral in a war. The resistance of neutral nations, especially of the United States, was a major problem in the enforcement of measures of economic warfare against Germany in the two world wars. When the United States unilaterally imposed economic sanctions on Cuba in 1960, sanctions that are still being enforced, the whole range of measures employed by Britain in wartime to impose economic controls on unwilling neutrals was employed. The "neutrals", however, have nonetheless been able to maintain an

³⁸ Alarcón de Quesada, SCVR, Provisional, 2977th meeting, 13 and 15 February 1991; and see 18 August S/PV 2937 Discussion of draft resolution S/21562.

extensive trade with Cuba.³⁹ Fraud continues to be a problem in the issuance of end-user certificates needed to enforce United Nations sponsored sanctions.⁴⁰ In one episode in the Yugoslavian crisis, Russian soldiers wearing the Blue Helmet of the United Nations reportedly profited by the high black market prices for fuel and military supplies created by the sanctions they were supposed to be enforcing.⁴¹

There is good evidence that the prime minister of Rhodesia, Ian Smith, was assured by a *Shell Oil* executive prior to his unilateral declaration of independence that means would be found of getting around any oil embargo. The Portuguese Foreign Minister advised London in 1966 that half the oil being shipped into Rhodesia was being shipped by British companies, *Shell UK* and *BP*, and in February 1968 President Kaunda of Zambia reiterated the information. The complicity of the British government in the evasion of the sanctions on Rhodesia was at least in part a result of an unwillingness to harm the British economy. Prime Minister Wilson declared that the first year of sanctions, despite their evasion, cost the British economy \$250 million. In the period up to March 1973, the direct cost of sanctions to the British exchequer was an estimated at £49 million, and the loss of exports to Rhodesia was valued at about £31.4 *per annum*.⁴² The cost of the economic war against Rhodesia was devastating to Zambia, and the contribution Britain made to international efforts to support the Zambian economy added to Britain's own problem. Canada paid for, and China built, a railway through Tanzania to enable Zambia to continue exporting copper without using Rhodesian railways, but the injury sanctions did to Zambia is still blighting its economy in the 1990s.⁴³

³⁹ Donna Rich, "Lessons from the U.S. Embargo against Cuba," in South Africa. The Sanctions Report, Joseph Hanlon, ed., pp. 157-67; and Sergio Roca, "Economic Sanctions against Cuba," and David Leyton-Brown, "Extraterritoriality in United States Trade Sanctions," David Leyton-Brown, ed., The Utility of International Economic Sanctions, pp. 87-104

⁴⁰ Experience of such fraud dates back at least to the 17th century when King William III tried, unsuccessfully, to ration imports into Flanders to prevent transshipment to France.

⁴¹ "The Colonel Who Betrayed the UN," *London Evening Standard*, 21 April 1993; and Mats R. Berdal, Whither UN Peacekeeping?, Adelphi Paper 281, London, October 1993, p. 47.

⁴² Robert C. Good, UDI: The International Politics of the Rhodesian Rebellion, (Princeton: Princeton University Press, 1973), pp. 171-2, 185; and statement by Lord Balniel, 26 June 1973, United Kingdom, House of Commons Debates, 1972-73, vol. 858, written answers pp. 304-5.

⁴³ Richard Hall, The High Price of Principles: Kaunda and the White South, (Harmondsworth: Penguin, 1973), p. 1.

The value of the Rhodesian case is affected by the evidence that London's real political objective was to protect British interests in the multi-racial Commonwealth rather than to compel Rhodesian submission, and that the broader economic requirements of the British state were permitted to impede the ostensible political purpose of the sanctions. This fact, however, only displaces responsibility for fraud, and is consistent with historical patterns related to the difficulties involved in the enforcement of sanctions.

The sanctions imposed on the Republic of South Africa were steadily tightened, but were never complete. South Africa is heavily dependent upon international trade, has limited capacity to compensate for deficiencies by domestic production, and does not enjoy the protection of sympathetic neighbours as did Rhodesia. Its economy could not withstand a complete trade embargo, but it never had to confront one.⁴⁴ The protracted refusal of the British government to participate in the international sanctions regime against South Africa was stated to be based on the negative impact it would have on employment in Britain, as well as amongst the black work-force in South Africa which it was the object of the sanctions to serve.

The sanctions imposed by President Carter on the Soviet Union following the invasion of Afghanistan were also far from complete because of the economic and political repercussions trade barriers would have had in the United States. Similar considerations severely restricted the willingness of other western states to impose trade controls.⁴⁵

The overriding consideration in the problem of enforcement is that the incentive for traders who wish to evade sanctions will generally be greater than is that of the officials who are charged with the task of blocking it. The bureaucratic conflict between those responsible for enforcement and those in Boards of Trade responsible for maintaining a favourable balance of trade is a significant addition to the problem. Over the history of naval and administrative blockade, there has been a steady improvement in the technology of enforcement, but there has never been a blockade of a major state which was impermeable. Governments connive at wartime trade with the enemy, either because it is recognized that the belligerent itself must trade to live, or because business interests suborn government. Certain international business interests are little concerned about respecting a blockade, preferring to profit from high wartime prices, and providing themselves with insurance against war loss. The deficiencies of wartime blockade have been more than equaled by those of peace-time sanctions.

⁴⁴ Joseph Hanlon, ed., South Africa, The Sanctions Report, pp. 154-60 and *passim*.

⁴⁵ Peggy L. Falkenheim, *loc. cit.*

In the First World War, the British Foreign Office and the Ministry of Blockade discovered that it was easier to minimize fraud if arrangements were made directly with neutral shipping companies to police their own cargoes, under the threat of seizure of their shipping or denial of bunker fuel. Individual neutral businesses found to be "trading with the enemy" were placed on a "black list" of firms with which none subject to the laws of countries forming the *Entente* could do business. In contrast to that effective system of control, "no government agreement was satisfactory."⁴⁶ Inspection at sea of shipping bound to neutral harbours was used only as a final check on the system of bureaucratic control, which was based on effective commercial intelligence. This lesson may have application to the problems of United Nations sponsored economic sanctions. It may be important for institutions independent of the majority of member states to be employed for supervision of compliance. Ideally, such an agency would be part of the United Nations secretariat, but *faut de mieux* an agency of one or more of the great powers could be delegated to undertake the work, with authorization to deal directly with commercial firms subject to other national jurisdictions.

3.6 Summary

The conclusion which appears to be evident from the history of economic sanctions is that their coercive force is generally inadequate to affect the outcome of critical, time-urgent developments in international relations. Their potential is modestly greater when circumstances allow a measured response. One of the decisive considerations is whether world opinion will tolerate a protracted period of confrontation. Tailoring the sanctions regime to reduce their impact on innocent people (for example, by permitting the import of food and medical necessities) can increase the world's tolerance for the act of coercion. At the same time, reducing the political profile of the sanctions within the target state may facilitate compliance by the target government. The importance of managing the impact of the strategy upon public opinion is central to its potential. Parallel to the application of carefully tailored pressure must be creative diplomacy. However, the difficulties to be overcome are so great that, except where the target economy is as small and as easily isolated as is that of Haiti, it may only be useful to conceive of coercive sanctions as a means of punishment and deterrence.⁴⁷ And at the time of writing, even

⁴⁶ CAB 21/307, "The Freedom of the Seas, Appendix," 21 December 1918.

⁴⁷ Sanctions were initially imposed on Haiti by the Organization of American States, acting on pressure from its newest member, Canada. When the Haitian government found means of evading those sanctions, the Canadian delegation to the United Nations obtained a Security Council resolution (Resolution 841, 16 June 1993) making partial sanctions mandatory. The United States Coast Guard, supported by the Canadian Navy, supervised enforcement. *Globe and Mail*, Editorial, 6 July 1993, and report, datelined Port-au-Prince, 27 August 1993. Subsequently, of course, the settlement was not honoured by the current *de facto* regime. The rather dismal Haiti saga continues.

the beleaguered illegal government of Haiti continues to resist the resolutions of the United Nations.

Robin Renwick has concluded that the coercive effect of sanctions is greatest when latent. The tendency of sanctions, once they have been declared, or even explicitly threatened, to coalesce collective resistance within the target state by generating a psychosis of "collective guilt" suggests that they should be conceived of as punitive, and imposed on defaulting states largely as a means of deterring other defaulters. The abandonment of sanctions against Italy in 1936 because they had failed to stop the Italian invasion of Ethiopia was a mistake in this regard, one which has been avoided by the United States in the post war period. The protracted sanctions imposed unilaterally on Cuba and Vietnam by the United States, and the ongoing sanctions against Iraq, maximize the deterrent capacity of sanctions, although it may be argued that unilateral action is itself a threat to world peace.⁴⁸

Although there is some evidence that sanctions had an impact on decision-making in the Republic of South Africa, in an intractable conflict such as the crisis in the former Yugoslavia, it may be that the punitive role of sanctions is the most that can be expected. Economic considerations are clearly not the driving force in the crisis, and it may well be that the only real value of sanctions is the warning provided to possible future transgressors. In the short term, many Balkan peoples will suffer because of the sanctions imposed by the United Nations on Serbia and Montenegro, but in the longer term the effect of the sanctions on the behaviour of other states may prove beneficial. As with any measure of prevention, however, it will be difficult or impossible to demonstrate with any degree of confidence that violations of international peace have indeed been deterred by such examples.

The relative failure of economic sanctions as a coercive force has shifted the emphasis of United Nations efforts to what amounts to economic warfare, or quasi-warfare. The centre piece in this strategy, of course, has been embargoes placed on the sale of arms, and on the transfer of advanced technology. In the case of South Africa, the inability to replace damaged or worn military aircraft appears to have been influential in bringing a change in South African foreign policy, leading to a withdrawal of forces from

⁴⁸ Robin Renwick, *op. cit.*, pp. 88-92. Kim Richard Nassal contrasts the juridical role of sanctions under the League, which he characterized as "punishment" for violations of international law, with the political role of sanctions by the United Nations as acts of coercion, but this distinction does not affect the historical observation about the actual role of sanctions. See "Economic Sanctions in the League of Nations and the United Nations", in David Leyton-Brown, The Utility of International Economic Sanctions, (London: Croom Helm, 1987), pp. 7-22.

Angola.⁴⁹ The embargoes on arms sales have been made more effective by the general attack on the economy of the target state. The sanctions imposed on Iraq over the span of three and more years have virtually destroyed its economy, and hence its capacity to conduct aggressive warfare. The key element has been the ban on the sale of weapons to Iraq, but the assault on Iraq's finances through blocking its export trade has ensured that potential leakages in the arms embargo could not be exploited. The Soviet Union demonstrated a capacity to by-pass controls on technology transfer, but ultimately its demise was hastened by its evident economic weakness. Although a very blunt instrument, the capacity of sanctions to undermine the military potential of aggressive governments is certainly valuable to the international community.

4. The Concept of Pro-Active Sanctions

Relegation of sanctions to punishment for past transgressions, with the hope that the example will prove salutary, and the use of sanctions as a means of disabling aggressive governments militarily, may be realistic given the evident limitations of the coercive model. However, study of the history of economic warfare suggests that there could be a middle ground where new forms of sanctions could play a useful role in international affairs as pro-active forces with political and economic mechanisms which do not depend inherently upon coercion for their consummation.

It is appropriate to question the underlying strategic assumption that impoverishment of the target state is an important means to the end of obtaining redress to the damage it has inflicted on the international community. Prior to the industrial revolution, and as late as the Napoleonic War, the dominant concept of economic warfare was one based on the idea of monopolizing trade, for the purpose of multiplying the wealth of the belligerent. Instead of concentrating on impoverishing the enemy, the objective was to channel wealth into the war chest of the belligerent. Eli Heckscher has shown that mercantilism was essentially conceived as a system of power. It was the ultimate expression of sophisticated rapacity which sought the impoverishment of the enemy only insofar as it contributed to the increase of the belligerent's own wealth, which in turn multiplied the belligerent's power.⁵⁰ The mercantilist idea was discredited by 18th century economists such as Joseph Tucker and Adam Smith, but Smith excluded from his strictures those aspects of Britain's mercantilist legislation, the so called "navigation acts," which were most important for the support of the British navy. Mercantilism

⁴⁹ George Crown, "Success of the Arms Embargo", in Hanlon, South Africa The Sanctions Report, pp. 168-73.

⁵⁰ Eli F. Heckscher, Mercantilism, trans. by M. Shapiro, 2 vols., (London, 1931), vol. II, p. 29.

continued to be a suitable means of war, even if it had lost its peacetime appeal. Both Napoleon's "Continental System," and Britain's wartime Orders in Council arbitrarily regulating neutral trade with occupied Europe, were intended to pursue mercantilist objectives of power.

The mercantilist principle found some place in a 19th century practice known as the "pacific blockade" which used a naval blockade to promote limited purposes without resort to war, without abandoning the advantages of a non-belligerent relationship. The practice, especially when used to obtain payment of a debt, was derived from the concept of reprisal, or "self help." No right was usually claimed to interfere with neutral shipping, and private property seized during a pacific blockade was not condemned. Once the dispute was settled, the property was returned to its owners. The objective of reprisal is by definition a limited one; one not involving the safety of either party.⁵¹ This limited objective is critical to operationalizing the concept.

The use of pacific blockade in 1902 by the German, British and Italian governments to oblige Venezuela to honour its debts most closely resembled the mercantilist model, and is also the closest historical model for a pro-active sanctions system. Seizure of maritime trade directly addressed the issue of unpaid debt. The political implications of European naval action in waters viewed as a U.S. sphere of influence, however, ensured that the "neutral" United States would become involved, and that the exercise of power would be frustrated. The U.S. Secretary of State John Hay declared that the United States "understood that European powers were bound to claim the right to defend their interests in South America", but "greatly deplored the intervention of a European power in the affairs of a South American republic." A demand by the German government for protracted control of the Venezuelan customs house, ostensibly for collection of the debt, suggested an underlying motive of securing a political and possibly a military foothold in South America. This led to a show of American naval and diplomatic strength and to Britain's withdrawal of support.⁵²

⁵¹ Georg Schwarzenburger and E.A. Brown, A Manual of International Law, 6th edition, pp. 109, 150.

⁵² Albert E. Hogan, Pacific Blockade, (London, 1908), p. 124; Thomas F. Power Jr., Jules Ferry and the Renaissance of French Imperialism, (New York, 1966), p. 172, s.v. "Undeclared War with China", *et seq.*; A. Thomazi, La Conquete de L'Indochine, (Paris, 1934), s.v. "La Guerre Navale (1884-1885)"; Ralph A. Leitner Jr., "International Considerations in the French Blockade of Formosa (1884-1885)", (New York: Ph D St. John's University, 1979); Neil H. Alford, Naval War College International Law Studies, 1963, Modern Economic Warfare (Law and the Naval Participant), (Washington, 1967), s.v. "Pacific Blockade" pp. 273-9; Holger H. Herwig, Germany's Vision of Empire in Venezuela, 1871-1914, (Princeton, 1986), *passim.*; and C.J. Bartlett, Great Britain and Sea Power, (Oxford, 1963), p 87.

Following the Venezuelan episode, pacific blockade did not appear to be practicable politics. At the 1907 Hague Conference, the great powers agreed to the "Porter Convention" which proscribed the use of reprisals to exact payment of debts.⁵³ However, the political significance invariably attached to the use of pacific blockade is an unavoidable consequence of any act of power and is not inherently different from that attached to the use of economic sanctions. In the context of 19th century international relations, pacific blockade was a relatively successful means of protecting the interests of the great powers. Albert Hogan wrote in 1908: "during the last eighty years, pacific blockades have been the means of bringing a number of such disputes to a peaceful conclusion."⁵⁴ The inchoate rules of pacific blockade minimized the resentment of the developed states which possessed ocean-going merchant marines, and the "right" of such states to use force to manage relations with less developed states was scarcely questioned.

Mercantilism is rightly condemned by modern economists because it is seen as a restraint upon the total volume of world trade. However, it has been shown that this is also one of the great defects of economic sanctions which have serious effects on international trade. They possess all the negative qualities possessed by measures of mercantilist trade war, without possessing the capacity mercantilist measures might be made to have to increase the resources of the United Nations. It is worth considering the possibility that a new system of sanctions analogous to the forms of mercantilist trade war and pacific blockade should be added to the arsenal of the United Nations.

What is needed is a sanction capable of addressing violations of international law or morality which does not depend entirely on coercion of the target government, which does not create major problems for international commerce or the economies dependent upon it, and which channels money in directions supportive of the goals of the United Nations. The first and last criteria are really one, because a system which employed money to halt or reverse the problem created by the target state would by definition depend less upon coercion. This requirement, and that of minimizing the negative effects of sanctions upon world trade, could be met by replacing the idea of complete or partial trade embargoes with that of a tax placed on the target state's imports and exports set at the level which generated maximum revenue. Although such a tax would inevitably reduce the flow of trade from and to the target state, the revenue generated by it would be available for commercial and aid projects that could restore a large part of the lost volume of world trade, and create opportunities for international business to recover lost

⁵³ Leon Friedman [Editor], The Law of War, (New York, 1972), vol II, p. 298.

⁵⁴ Albert Hogan, *op. cit.*, p. 3.

profits by pursuit of new investment opportunities. A pro-active sanction would include a tax on financial transactions, and a ban on state sponsored credits.

In effect, a sanction which constituted a tax on trade with an offending state would depart from the concept of crime, punishment and deterrence of crime and replace it with the concept of wardship in which governments defaulting in their duty to the international community would be deprived of a measure of control over their budgets. Their own tax base would be cut back by the tax placed on their trade by the United Nations, their credit would be damaged, and the money generated by the tax would be used to support programmes outside their country which could be directly contradictory to their objectives, and certainly would not be priorities they recognized. In some circumstances, the target government might even find it expedient to permit the United Nations to fund projects inside its own borders that would address problems created by its own actions or neglect. The system would not depend upon the decisions of the target government acting under pressure. This direct action of the United Nations to address the problem would take the place of fuller-scope coercion.

Paradoxically, the avoidance of histrionic efforts at coercion could increase the effective coercive force and at the same time smooth the way for compliance by the target government. Influence for change could increase, not only because the target government would be subjected to less humiliation, but also because it would have less reason to hope it could out-last the will of the world community to impose the sanction. Trade is not a philanthropic activity but one of mutual benefit. Pro-active sanctions which stimulated some diversion of trade away from the target government would not be seen as being as mutually disadvantageous and could, therefore, be more clearly effective. It would be easier to sustain the sanctions regime for long enough that its punitive value would be established.

The lessons learnt in World War One about methods of enforcement, and reinforced by more recent experience, are applicable to a system of pro-active sanctions. The difficulty of enforcement, however, would be minimized because trade would be deflected rather than more fully or completely blocked. It would be possible for the tax system to be tailor-made to minimize its negative impact. The United Nations could order members to collect a tax on trade equal to an agreed proportion of the total value of that nation's import and export trade with the target state, leaving it to members to determine how the tax was applied. In this way, members could favour the least robust parts of their own economies, and extract the revenue from those parts most able to bear the load, or most able to employ the tax revenue to develop new enterprises which would carry out the United Nations agenda.

Of course, it would be critical to ensure that such a tax be allowed only pursuant to a Security Council decision, in order to avoid potential unilateral abuse by the major economic powers, always a sensitive point for a trade-dependent country such as Canada. Moreover, guidelines should be developed to identify the types of state behaviour that the international community might most appropriately address by a mercantilist-like tax, in part to ensure that actions remain consistent with contractual international trade obligations (e.g., pursuant to the GATT/WTO).

One of the problems associated with a system of pro-active sanctions is the determination of appropriate purposes for which the generated revenue should be used. An obvious first call is the expense incurred by the international community in enforcing the sanction, but it has to be borne in mind that the deflection of wealth from trade to bureaucratic and peacekeeping purposes has negative implications for the world economy. The development of programmes of a more commercial nature, which would confront the immediate problem and would also provide an opportunity for businesses to offset their lost trade with the target state, would inevitably be complicated. If the task were left entirely to an agency of the United Nations, the competing claims of different national economies would have to be met, and the claims of individual businesses would have to be considered. Only some of the affected enterprises would be able to take up the opportunities created for deflecting their business in new directions. As with the collection of the tax, however, its application could also be left to national governments, under the guidance of one of the agencies of the United Nations which would be instructed to establish guidelines and to approve projects. It would be appropriate for commercial firms whose business prospects were reduced by the tax imposed on aspects of their trade to be asked to suggest ways in which they could use the revenue so accumulated to develop investments which were consistent with the pro-active programme.

It may be useful to consider a hypothetical example of the manner in which pro-active sanctions could be used, drawn from the history of the effort to use sanctions to change the racial policies of the Republic of South Africa. India imposed a comprehensive trade ban on South Africa in 1946; in 1964, Japan banned direct investment in South Africa; and in 1973, an oil embargo was established by the Organization of Arab Oil Exporting Nations. It was not until after the 1976 Soweto uprising, however, that the sanctions campaign moved into high gear, with a United Nations Security Council resolution banning arms sales to South Africa, and the collective action to stop South African participation in international sporting events. Prime Minister P.W. Botha asked for more time to resolve the problems of apartheid, but used the breathing space he was given to develop efforts at destabilizing neighbouring economies. In order to strengthen its position, to undermine the African National Congress forces operating from neighbouring states and to make life at home appear all the more

attractive, the South African government deployed terrorist forces into Mozambique and regular military units into Angola to disrupt the economies of the "Front-Line States." In consequence, in 1985-87, individual countries established comprehensive trade bans, notably the Nordic countries and the United States, and the Commonwealth and the European Community established more selective bans. Britain, however, only established a voluntary ban on investments, refusing to order comprehensive economic sanctions because of the impact they would have on the British economy.

A system of pro-active sanctions could have countered the destabilization strategy, and met Britain's economic needs. A tax collected on trade with South Africa could have been used to stimulate investment in the Front-Line states, and to pay for United Nations forces combating guerrilla attacks. Because the tax would have diverted but not interrupted world trade, it could have been continued as long as the Republic of South Africa continued its racial policies. Pro-active sanctions could have stopped or even reversed the flow of people looking for work in South Africa, and established model multi-racial states on the border of the Union. It is not improbable that the South African government would have consented to the United Nations using some of the revenue inside South Africa to promote the economic status of the black community.

As it happens, South Africa undertook its own restructuring to eliminate apartheid. The literature agrees that sanctions have had a significant impact on the South African economy, and that the economic effect has produced political results.⁵⁵ While it would be unscholarly to refuse to acknowledge that sanctions may have been a major force for change, it is appropriate to observe that one of the recurring patterns in the history of economic warfare is that defeated leaders find it convenient to blame economic forces. It is also appropriate to observe that a system of sanctions which did not have so clearly a negative impact on world trade might have been instituted thirty years ago, and might have brought about the present reformation somewhat earlier, and somewhat less convulsively. Such a process might have been less satisfying to the moral outrage of a world community accustomed to think in terms of full-blooded coercion, but it is to be hoped that international opinion could have been educated to see the value of such a creative strategy, one that appears to be in sympathy with current efforts at reconstruction and reconciliation in South Africa.

⁵⁵ See for instance, Joseph Hanlon, Successes and Future Prospects of Sanctions Against South Africa, Discussion Paper No. 2; and Quarterly Report, November 1992, both published by the London School of Economics, *Centre for the Study of the South African Economy and International Finance*, (London, 1990 and November 1992).

An important step has already been taken at the United Nations in developing into a workable strategy the idea of using sanctions to obtain control of money which can be used to address problems in the world. Security Council resolutions 706 and 712 empowered member nations to transfer frozen Iraqi assets to a United Nations escrow account to pay for humanitarian relief and other United Nations operations in Iraq, and resolution 778 empowered states to sell Iraqi oil assets for the same purpose. The seizure of assets has a negative effect on world trade and may not always generate much revenue, but it does have some of the characteristics of a system of pro-active sanctions.

A closer, but untested, variation of pro-active sanctions can be found in the North American Agreement on Environmental Cooperation agreed to by Canada, Mexico and the United States. In the event that one of the Parties to the agreement is found to have persistently failed to enforce its own environmental standards and that Party does not implement corrective action, provision has been made for a "monetary enforcement assessment" or fine that is paid from the national Treasury (the Consolidated Revenue Fund in Canada's case) into a trilaterally managed fund dedicated to improving the environment or environmental law enforcement in the Party complained against.⁵⁶ It is important to recall that this mechanism applies between three partner countries, not adversaries. Moreover, given the importance of trade to Canada, this country preferred that the collection of any fine ultimately be made enforceable through the appropriate domestic court by way of summary proceedings, whereas both the U.S. and Mexico accepted that the failure to pay a fine could be collectable through a suspension of trade benefits (likely through an increase in import duties). Yet, the concept of an internationally disciplined fine and action fund system in this example is, broadly speaking, consistent with the pro-active sanctions approach outlined in this Paper.

5. Conclusion

Development of institutions with adequate facilities to direct and control United Nations operations, including the management of sanctions, could make possible greater sophistication in the design of traditional coercive sanctions. However, it is unlikely that sanctions will prove to be effective coercive forces in the short term under typical conditions, and their capacity over time to degrade the economic resources of the target state so that it becomes increasingly vulnerable to other factors such as armed resistance

⁵⁶ North American Agreement on Environmental Cooperation between the Government of Canada, The Government of the United Mexican States, and the Government of the United States of America, Final Draft, 13 September 1993, Articles 34 and 36, Annexes 34 and 36 A/B. See also Keith H. Christie, Stacking the Deck: Compliance and Dispute Settlement in International Environmental Agreements, Canada, Department of Foreign Affairs and International Trade, Policy Staff Paper No. 93/15 (December 1993).

will continue to have negative effects on the world economy, and create, quite pointlessly, misery amongst the common people.

The primary task of the United Nations Undersecretary-General for Sanctions must be to devise sanctions that will directly address the problem confronting the world community, and which can be sustained without major injury to world trade for a period long enough that they can serve a secondary purpose of punishing transgressors and deterring potential transgressors. In doing so, the resources of United Nations agencies most directly affected by the problem, and those of member nations, can be employed.

Pro-active sanctions as outlined in section 4, together with embargoes on strategic commodities and measures such as public broadcasting under United Nations control, can yet provide non-violent means of addressing the crises of the post Cold War "new world order." A system of carefully crafted pro-active sanctions (always recalling Canada's critical interest in promoting the open, multilateral trading system) would be an addition to the means employed by the United Nations to address world problems, not a panacea solution. It is a concept, however, that should find a place amongst the standard operational procedures of the United Nations, and be understood by the leadership of member nations.

LIBRARY E A/BIBLIOTHEQUE A E



3 5036 20013987 4

DOCS

CA1 EA533 94P17 ENG

Tracy, Nicholas

Pro-active sanctions : a new/old
approach to non-violent measures

43267933

16. Le Libre-Echange Nord-Americain, les subventions et les droits compensateurs: la problematique et les options, par Gilbert Gagné. 94/13 (À paraître). SP47
17. Dangerous Liaisons: The World Trade Organization and the Environmental Agenda, by Anne McCaskill. 94/14 (forthcoming) SP48
18. Damned If We Don't: Some Reflections On Antidumping and Competition Policy, by Keith H. Christie. 94/15 (forthcoming) SP49

B) TRADE DEVELOPMENT SERIES

1. From a Trading Nation to a Nation of Traders: Towards a Second Century of Trade Development, by Andrew Griffith. 92/05 (March 1992) SP12
2. Exports and Job Creation, by Morley Martin. 93/06 (June 1993) * SP24

C) REGIONAL TRADE AND ECONOMIC SERIES

1. Different Strokes: Regionalism and Canada's Economic Diplomacy, by Keith H. Christie. 93/08 (May 1993) * SP26
2. Japan Trading Corp.: Getting the Fundamentals Right by I. Prakash Sharma. 93/16 (December 1993) * SP34
3. Canada in the Americas: New Opportunities and Challenges, by Conrad Sheck, Colin Robertson, Jamal Khokhar, Nicolas Dimic, and Keith Christie. 94/06 (April 1994) * SP40
4. China 2000: The Nature of Growth and Canada's Economic Interests, by Steve Lavergne. 94/10 (May 1994) SP44
5. The Japanese Way: The Relationship Between Financial Institutions and Non-Financial Firms, by James McCormack. 94/16 (forthcoming) SP50

D) OTHER ECONOMIC PAPERS

1. World Population Growth and Population Movements: Policy Implications for Canada, by Michael Shenstone. 92/07 (April 1992) SP14
2. Pour des sanctions efficaces et appropriées, par Jean Prévost. 93/04 (mars 1993) * SP22
3. Black Gold: Developments in the World Oil Market and the Implications for Canada, by Sushma Gera. 93/05 (February 1993) * SP23
4. Determinants of Economic Growth in Developing Countries: Evidence and Canadian Policy Implications, by Rick Mueller. 94/08 (April 1994) * SP42
5. Still an Albatross? The LDC Debt Crisis Revisited, by Rick Mueller. 94/09 (May 1994) SP43
6. Pro-Active Sanctions: A New/Old Approach to Non-Violent Measures, by Dr. Nicholas Tracy. 94/17 (June 1994) SP51A

* available in English/disponible en français



