

Trade and Economic Sanctions - Effectiveness and Evil of Sanctions

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Introduction

Globalisation has opened new dimensions in conflict resolution as trade and economic interests guide the same and their use of sanction being applied as tools of State Policy. It is a well known fact that economic sanctions have been frequently used in last few decades, both multilaterally by the United Nations and unilaterally by the United States.¹ Yet, the knowledge about the efficacy and implications of trade and economic sanctions remains inadequate. This results in errors when assessing the utility of sanctions as an option in general and in the misapplication of sanctions in most cases. Sanctions that are haphazardly applied will not necessarily induce policy changes in the desired direction. Sanctions offer a middle course 'between words and wars.'² Sanctions could be resorted to under Chapter VII of the United Nations Charter when considered by the Security Council to be absolutely necessary. The objectives of any sanction including trade and economic sanctions are as follows:-

- (a) Deterrence.
- (b) Restoration.
- (c) Rehabilitation.
- (d) Prevention.
- (e) Institutional Reconstruction.
- (f) Individual Reconstruction.

Economic sanctions are often used in times of war in the form of economic blockades and embargoes. Here they are, however, secondary to military measures. There is a fundamental difference between sanctions employed during wartime with the aim of destroying the infrastructure of the offending State, and

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sanctions employed as a method of “non-destructive coercion” with the objective of law enforcement. There are important differences in the status and purpose of economic measures used as techniques of warfare either in conjunction with military measures or independently and economic sanctions employed by an international organisation as part of a constitutionally authorised enforcement process.

Chapter VII of the UN Charter confers upon the Security Council the competence to “determine the existence of any threat to the peace, breach of the peace, or act of aggression”, as also the power to decide upon the measures needed to “maintain or restore international peace and security.” If satisfied the Security Council may initiate economic action against the offending state under Article 41. Such action may “include complete or partial interruption of economic relations and/or rail, sea, air, postal, telegraphic, radio and other means of communication, and the severance of diplomatic relations”.³

Range of Measures

The range of measures that can be adopted by the sanctioning state are as follows:-

- (a) The management of access to a flow of goods, services and money, as well as to markets, with the end of denying the target State such access while maintaining it for oneself.
- (b) The blocking or freezing of the target assets.
- (c) The imposing of import and export embargoes, total or selective.
- (d) Blacklisting of foreign firms and individuals who deal with the target State.
- (e) Drying up of foreign supplies by preclusive buying.
- (f) Control of re-exportation from a non-participant territory.
- (g) Control of shipping through selective admission to credit, insurance, stores, fuels, port and repair facilities.
- (h) The monetary system of the target State may be substantially impaired by skillful manipulation of foreign exchange markets.
- (i) Withdrawal or refusal of credits.

Rationale

The assumption behind the classical theory of sanctions is that economic deprivation of that country affects the population for basic needs. It causes political instability or becomes a cause of concern for the regime. It will result in either political change or acceding to demand for which sanction has been enforced. The precise manner in which economic sanctions would cause hardship has been variously interpreted. It is, however, generally agreed that income levels go down by and large and real income suffers a decline, thus shortage of foreign exchange makes curbs on crucial imports inevitable, and that the loss of foreign markets leads to deterioration in the balance of payments position. The modern State is not a self-sufficient economic unit; the development of international trade and commerce has made it an integral part of the world economy. Economic isolation can very well undermine the economic structures of the target State. Therefore, sanctions will succeed if:-

- (a) The imports of the target State have a very high loading effect on important sectors.
- (b) There is no internal substitute for the imports.
- (c) A high percentage of the important imports come from the sending nations applying sanctions.
- (d) There is no external substitute for these imports so that the target cannot change its trade partners.
- (e) The imports make up a very small part of the exports of the sending nation(s), and/or that they can form alternative trade relationships.
- (f) The exports of the target are sent mainly to the states applying sanctions and that it cannot find new markets easily.

A comprehensive sanctions regime, indeed any regime of sanctions that is capable of affecting the civilian population, must provide for "humanitarian exceptions". This is necessary whether the sanctions are imposed by a State or by the Security Council. Some of the exceptions are enumerated as follows:-

- (a) The prohibition on starvation of the civilian population.
- (b) The right to humanitarian assistance.

- (c) Relief supplies in naval blockades.
- (d) Relief supplies for occupied territories.

Case Study Iraq

The United Nations Security Council has maintained comprehensive economic sanctions on Iraq since August 6, 1990 under Resolution 661, stayed largely in force until May 2003 and persisted in part including reparations to Kuwait through the present.⁴ Many policy makers saw these economic sanctions as an ethical and non-violent policy tool.⁵ Though Iraq sanctions produced some significant disarmament results, they failed to achieve all their policy goals and they have deeply harmed powerless and vulnerable Iraqi citizens and were criticised for their harmful humanitarian impacts.⁶ They were only successful in achieving Iraq's disarmament by pressuring the regime to accept grudgingly the UN weapons monitoring mandate.⁷

Civilian Suffering. There is a clear consensus that the humanitarian and developmental situation in Iraq has deteriorated seriously since the imposition of comprehensive economic sanctions whilst, at the same time, sanctions have clearly failed to hurt those responsible for past violations of International Law as Saddam Hussein and his ruling elite continued to enjoy a privileged existence till Op Enduring Freedom.

Oil-for-Food. In the mid-1990s, as political support for Iraq sanctions declined, the Security Council proposed that Iraq export oil on a controlled basis and use the revenues, under UN supervision, to buy humanitarian supplies. The Council passed Resolution 986 as a "temporary" measure on April 12, 1995, with a restrictive cap on oil sales. The government of Iraq reluctantly agreed to the Council's conditions a year later. Though Oil-for-Food brought undoubted short-term benefits to a desperate population, it never eliminated the humanitarian crisis. Contrary to common perception, the Oil-for-Food program is not "humanitarian aid." No foreign government or NGO donates food, medicines or other necessities to Iraq under the programme.

Blocked Contracts, Holds and Dual-Use. In the period before Oil-for-Food, the Iraq Sanctions Committee reviewed proposed import contracts to determine whether they should be exempted from the import ban under Resolution 687. Food and

medicines considered strictly humanitarian most readily won approval, but even in this humanitarian area the Committee blocked contracts when a single delegation objected.

Analysis of Sanctions in Indian Context

On May 11, 1998, India detonated three nuclear devices. Two days later, India announced the tests of two more devices. On May 13, USA imposed sanctions which could be summarised as follows:-

- (a) Terminates assistance under the Foreign Assistance Act of 1961;
- (b) Terminates sales of defence articles, defence services and arms and munitions;
- (c) Terminates Foreign Military Financing;
- (d) Denies credit and credit guarantees by US Government;
- (e) Announces US opposition to any loans or financial assistance by International Financial Institutions;
- (f) Prohibits US banks from making loans or extending credit to the government of India; and
- (g) Prohibits export of certain goods and technology subject to export licensing.

The United States was not alone. Japan, Germany, Canada, Australia, Sweden, and Denmark also imposed sanctions. The effect of the US sanctions was that on May 14, the rupee dropped to a record low.

Inefficacy of Sanctions on India

The sanctions imposed by the United States and its allies had a negligible effect on the Indian economy and were in fact counterproductive to the American business interests.⁸ Sanctions were not substantial enough to pressurise New Delhi into making major concessions on proliferation issues, and Washington did not consider increasing the magnitude of sanctions to achieve its non-proliferation goals. Instead, sanctions were maintained to signal the international community's disapproval of India and Pakistan's nuclear tests, but were selectively lifted over the course of their

first year. Numerous factors were responsible for the inefficacy of sanctions on India and their eventual lifting by United States. These factors could be summarised as follows:-

- (a) Changing geopolitical equations.
- (b) Globalisation.
- (c) Population and market size of India.
- (d) Trade with the USA.
- (e) Technological resources.
- (f) Forex reserve available with the Indian Government.

Economic Sanctions against North Korea – Total Ineffectiveness

The United Nations Security Council approved a new regimen of sanctions in Mar 2013 against North Korea for its underground nuclear test in a unanimous vote.⁹ The tougher sanctions imposed penalties on North Korea's banking, travel and trade and were passed in a 15-0 vote that reflected the country's increased international isolation. Even China, North Korea's longtime benefactor, voted for it and was taken as a sign of Beijing's growing annoyance with Pyongyang's defiant behaviour on the nuclear issue.

The United States and other major actors have long opted for economic sanctions to destabilise North Korea's authoritarian regime and end its nuclear programme. Over the years, though sanctions have inflicted major economic damage and isolated North Korea from the global economy, but they have failed to change the course of the Kim regime's stability and nuclear programme. Sanctions have been ineffective primarily for two reasons :-¹⁰

- (a) Pyongyang has been able to shield its ruling circle from the economic costs of sanctions, and has employed means of repression to quell dissent and domestic opposition.
- (b) The targeted North Korean regimes surviving external pressure by diverting the economic costs of sanctions to ordinary citizens and using the remaining resources to offer selective rewards to their supporters to isolate them from the economic hardship. Selective rewards in turn preempt defections from the ruling circles.

Suggestions

Economic aggression has been waged on States as diverse as Cuba, Iran, Myanmar, South Africa, Serbia, Libya and Syria. In almost all cases, they were counterproductive, internally strengthening the deplored regime and its policy. In Iraq, Serbia and Libya their failure was an incitement to violence and war. Economic and trade sanctions impoverish the poor, militarise the State and cripple the mercantile middle class from which opposition to a regime might arise.

While a weapon can devastate an entire neighbourhood in a moment, the slow death of economic strangulation can so degrade an entire population that they are reduced to a pre-civilisation state.¹¹ The change in the nature of threat to the international peace and security environment has thrown open numerous contradictions, problems and varied approaches to conflict resolution. Economic sanctions have become an important instrument for expressing disapproval of certain proscribed acts of nations, such as cross-border aggression and gross violations of human rights. Most developed nations consider economic sanctions as 'a peaceful, silent and deadly remedy'.¹² Sanctions are perceived as milder than going to war, but more stringent than mere diplomatic protests or the withdrawal of ambassadors. Some Human Rights Organisations have labelled economic and trade sanctions as acts of war, because of their effects on the common man. Although end of apartheid in South Africa due to sanctions was a mile stone but there are basic ethical objections to the use of sanctions in general cases. Sanctions are a form of punishment and there are four preconditions that would make punishment morally acceptable:-

- (a) There must be a legitimate authority to administer sanctions.
- (b) The guilty rather than the innocent should be punished.
- (c) Individuals rather than masses should be punished.
- (d) All offenders must be treated equally.

Sanctions, as presently practiced do not fulfill any of above mentioned preconditions. Among alternatives to sanctions, "targeted sanctions", which would be directed against the leadership, not the people would be more prudent and effective in today's scenario.

The most significant of the major recommendations for institutionalising these reforms are as given below:-

- (a) Promote greater transparency and more effective communications, to inform member states and the public about sanctions requirements and purposes.
- (b) Develop improved guidelines and standardised reporting procedures to assist member states in the implementation of sanctions.
- (c) Clarify the conditions that must be met for sanctions to be lifted, and consider easing sanctions partially in response to partial compliance by targeted regimes.
- (d) Standardise and improve procedures for providing humanitarian exemptions and assistance.
- (e) Utilize expert panels and monitoring mechanisms for the investigation of sanctions compliance.
- (f) Take action against those who are found to be deliberately violating sanctions (the expert panel reports recommended imposing sanctions against such violators).
- (g) Provide technical assistance and expert advice to states needing help in the implementation of sanctions.
- (h) Conduct periodic assessments of humanitarian impact, third party effects, and the progress of implementation efforts.

In conclusion, resorting to economic sanctions now appears to be an established part of the international community's response to situations involving violence or a risk of violence. Such sanctions are legal in terms of International Law, provided they comply with applicable rules of human rights and International Humanitarian Law. This means that sanctions regimes must be crafted in such a way that they do not endanger the lives or health of the population of the target State. They must provide for humanitarian exceptions to limit the suffering caused to the civilian population and to comply with Human Rights and International Humanitarian Laws. Furthermore, sanctions regimes must be monitored, throughout their duration, to ensure that they do not cause undue suffering to the population of the target State and that the exemption mechanisms permit the delivery of humanitarian assistance.

Endnotes

¹ David Cortright and George A Lopez, *The Sanctions Decade: Assessing UN Security Council Sanctions in 1990*, (Boulder, Colo: Lynne Rienner 2000), esp ch 2.

² Peter Wallensteen and Carina Staibano, eds., *International Sanctions: Between Words and Wars in the Global System* (New York: Frank Cass, 2005).

³ Thomas G Weiss Samdaws ed., *The Oxford handbook on the United Nation*, 2007, pp 347.

⁴ https://en.wikipedia.org/wiki/Sanction_against_Iraq

⁵ Paul Conlon, *UN Sanction Management: A case Study of the Iraq Sanctions Committee, 1990-19994* (Ardsley, NY: Transnational Publisher 2000).

⁶ 'A peaceful, Silent, Deadly Remedy: The Ethics of Economic Sanctions,' *Ethics and International Affairs* 13, no.1 (1999): 123-142; and 'Cool War: Economic Sanctions as a Weapon of Mass Destruction,' *Harper's Magazine* (November 2002): 43-52.

⁷ George a Lopez and David Cortright, 'Containing Iraq: Sanctions Worked,' *Foreign Affairs* 83, no.4 (2004): 90-103.

⁸ <https://en.wikipedia.org/wiki/Porkhran-II>.

⁹ https://en.wikipedia.org/wiki/Sanctions_against_North_Korea.

¹⁰ www.sanctionswiki.org/North_Korea

¹¹ Thomas G Weiss Samdaws, op.cit., pp 365.

¹² A Peaceful, Silent and deadly Remedy: The Ethics of Economic Sanctions by Joy Gordon *Ethics and international Affairs* 13, No 1 (1999) : 123-142.

¹³ Lt Gen VK Saxena, AVSM, SM, *Future of United Nation in the 21st Century*, USI, Vij Book Incha Pvt Ltd, New Delhi.