WHEN ARE ECONOMIC SANCTIONS EFFECTIVE? SELECTED THEOREMS AND COROLLARIES

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Economic sanctions may take many forms and may be applied unilaterally or multilaterally, but like all uses of the economic instrument, they involve the purposive threat or actual granting or withholding of economic indulgences, opportunities, and benefits by one actor or group of actors in order to induce another actor or group of actors to change or adjust an internal or external policy. The external policy that has been targeted may be the withdrawal of the target from territory it has seized or illegally occupied, as, for example, South Africa's long occupation of Namibia; a change in an internal policy, for example patterns of human rights violations in China; or even the replacement of the elite in the target State, for example Peron in Argentina after the Second World War or Saddam in Iraq at the moment.

Economic sanctions are used often in international politics, not necessarily explicitly, indeed sometimes with demurrers or denials by the sanctionfeasor, who may insist that the consequences, which are, of course, regrettable, are the ineluctable result of some other lawful action.[1] An agriculture-exporting State's perishable products aboard a ship in harbor may slowly compost, as the importing State's customs inspectors, with unprecedented care, examine each hold, "by the book," all this occurring at a moment when the two States are engaged in a critical negotiation. But, denials or not, the target always gets the message.

Economic sanctions are not quite "equal opportunity" instruments, but their use is certainly not limited to the greatest States against the smallest States. Any disparity in power in general or as a result of an even transitory situation, can provide the basis for the design and application of

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1. In this respect, I would depart from the approach taken by HUFBAUER ET AL., ECONOMIC SANCTIONS RECONSIDERED (2nd ed. 1991), which is the indispensable work in this field and must be consulted for any inquiry. The authors only examine explicit cases of economic sanctions. I believe that it is a much more common occurrence than they allow and that it is particularly important to consider, inter alia, covert uses of the economic instrument, such as shifts of hard currency reserves to strengthen or weaken the currency of the target State before an election. *See generally* REISMAN & BAKER, REGULATING COVERT ACTION (1992).

an economic sanction program. During the stormy election of the Secretary-General of the OAS less than two years ago, some Caribbean States angrily accused Costa Rica of using "banana diplomacy" to persuade certain States to support the candidate it had put forward. Costa Rica is hardly a superpower. Conversely, immunity from economic sanctions is a matter of degree. Even large and powerful States such as the United States may be targeted effectively. The People's Republic of China has mounted an extraordinarily effective economic sanctions program against the United States through which it has secured virtually all the adjustments in America's China policy that it seeks. One of the most fascinating aspects of this particular economic sanction program is that the target, the United States, seems possessed of the idea that it is the economic sanctioner while States like China are the targets!

Are economic sanctions effective? If that means when used without the military strategy, can and do they induce desired adjustments in the external or internal policies of the target, the answer is yes. In 1919, Woodrow Wilson, one of the great enthusiasts of economic sanctions said:

> A nation that is boycotted is a nation that is in sight of surrender. Apply this economic, peaceful, silent, deadly remedy and there will be no need for force. It is a terrible remedy. It does not cost a life outside the nation boycotted, but it brings a pressure upon the nation which, in my judgment, no modern nation could resist.[2]

Wilson was speaking as a propagandist for the League and did not need, in that role and context, to specify the conditions for the success of the instrument. But his basic point still holds: economic sanctions can be highly effective. The pertinent question is under what circumstances and conditions are uses of the economic instrument likely to be effective? The answers to that question should indicate what adjustments should be made in the planning and implementation of economic sanction programs in order to increase their effectiveness.

Let us set some parameters to facilitate our inquiry this morning.

I will discuss the use of economic instruments alone or in conjunction with the other non-military strategic instruments, the diplomatic and the propagandic, but not in conjunction with the military instrument. Thus, I will exclude uses of the economic instrument as an integral part of an overt military strategy, either as a precursor to invasion, designed to "soften up" the enemy, or in the course of a long war, as a co-ordinate form of "economic warfare."

2. SAUL K. PADOVER, WILSON'S IDEALS 108 (1942).

I will not consider cosmetic uses of the economic instrument, in which a manifest and highly public program is set in place with no expectation that it will achieve its manifest objective. When the Soviet Union invaded Afghanistan in 1979, the United States imposed a grain embargo. Unless there was, in Jacob Viner's memorable phrase, a concurrent moratorium in Washington on the deliberate exercise of intelligence, we may assume that the designers of this program had no illusion about its effectiveness any more than they expected the United States' boycott of the Moscow Olympics to lead to a prompt Soviet withdrawal from Afghanistan.

I am not suggesting that prospectively ineffective uses of the economic instrument are without political consequence. They may still reinforce public commitment to the norm that has been violated and generate a sense of civic virtue in the government and public of the sanctioning State, without incurring unacceptable domestic political costs. In every instance in which a norm is violated, the most urgent social task is not punishing the violators, but re-establishing in the minds of the community, the continuing validity of the norm. Hence symbolic or cosmetic economic sanction programs may have important functions and may be deemed to have been effective in terms of those functions, despite the fact that they did not secure adjustments in the policies of the target State.

Nor will I deal with symbolic economic sanction programs that will be manifestly ineffective, but, by confirming the unlawfulness of the target's behavior and its continuing intransigence, will prepare the public in the sanctioning State for more assertive action. It is interesting to note that the same threshold finding under Article 39 of the United Nations Charter is required for economic and military action. Hence once the Council has decided on economic sanctions, for which there may be less political objection, the continuing resistance of the target itself becomes an increasingly more compelling argument for more severe action.

Because the question on which we will focus is when or under what conditions is the purposive use of the economic instrument to grant or withhold benefits in order to secure changes of internal or external policies of a target likely to be effective, let us stipulate what it meant by "effectiveness." The economic sanctions programs will be deemed to have been effective to the extent that, to some degree, a desired adjustment whether or not publicly announced or acknowledged was made in the policies of the target and a causal link may be discerned between the sanction program and that policy adjustment.

This type of assessment of success is far from easy, for a number of reasons. For one thing, the proclaimed or manifest goal of the program may not be the actual goal. Thus, a failure of the manifest goal may conceal substantial effectiveness in the achievement of latent goals. In the case of the Iraqi sanctions, for example, Saddam Hussein has not been removed from power, but his external effectiveness has been neutralized.

Assessments of success are also difficult because of the complex problem of social causality. Many factors are in play in every situation. Logicians admonish us to be wary of the fallacy of *post hoc ergo propter hoc*, i.e., the fact that an event follows another event does not *per se* mean that it was caused by the other event. A sanction program may appear to have been successful when in fact a key part of the result may be due to deferred concessions secretly promised by the sanctioner.

The assessment of effectiveness is also made difficult by the fact that political actors will put their own "spin" on the outcome of events. For example, in the recent trade negotiations between the United States and Japan, each used variants of economic instruments: The United States threatened to impose heavy, effectively punitive duties on selected Japanese goods, Japan threatened to take the matter to a World Trade Organization panel. Predictably, the matter was settled before, either of these actions was actually consummated. I am not certain as to which of the parties prevailed in the transaction (though I have certain suspicions). In any case, what is relevant here is that each party may point to its use of the economic instrument as a critical factor in the outcome, while minimizing the effective of its adversary's use of the instrument.

I now propose to formulate a number of theorems and corollaries about the circumstances or conditions under which economic sanction programs are likely to be effective.

One: Economic sanctions are more likely to be effective when the change in policy sought from the target is, in Roger Fisher's terms, an essentially "yessible proposition," i.e., the party to whom it is addressed can accept it without suffering a critical value loss. Thus, sanctions aimed at removing a dictator, who has effective control of the political order of the target State, are unlikely to be effective. Similarly, sanctions aimed at changes that would involve serious loss of face in the cultural context of the target are unlikely to be effective.

There are several corollaries to the theorem of "yessibility." First, the degree of yessibility of the policy adjustment sought will, in direct proportion, increase or decrease the quantum of destructive force necessary for the effectiveness of the sanction program. Put bluntly, the less yessible the policy adjustment you seek from the target State, the more coercion you must be prepared to invest in your sanction program.

A second corollary holds that yessibility will be increased by an accommodative formulation of the policy adjustment that is sought, i.e. a formulation that takes account of the needs or circumstances of the target elite. In particular, change that can be accomplished in ways that permit the target to save face are more yessible. In some circumstances, a package deal, in which the sanctioner appears to be making a concession to the target in return for the target's concession to the sanctioner may also increase yessibility. In this respect, economic sanction programs are more likely to be seen as part of a larger negotiation process, in which the economic instrument's role is not prominent and the result is likely to be attributed to negotiation rather than to the application of sanctions.

A third corollary, which is put forward much more tentatively, holds that adjustments in external policies will be more yessible than adjustments in internal policies, insofar as internal policies are likely to undermine the effectiveness of the political elite.

Two: Sanctions aimed at securing changes of policy are more likely to be effective when the political elite in the target State is itself composed of rational profit-maximizing economic actors or the internal political structure of the target is such that the political elite, though not economically oriented, must take account of the interests of other rational economic actors. Thus, sanctions will be less effective in securing changes of behavior in repressive dictatorships that control internally through an apparatus of terror and more effective against liberal democracies. As a result, the success of sanction programs against dictatorships will soon begin to be measured in terms of the destruction of the target economy, rather than in terms of a change of internal or external behavior. In this respect, these sanctions will quickly acquire the character of economic warfare in a larger military program.

This is a particularly intriguing theorem, for of course it is the liberal democracies that have, to date, made the most manifest use of economic sanctions and frequently, but not exclusively used them against authoritarian governments. But authoritarian governments can also play the game and the purpose of this theorem is to alert us to the possibility that they might be able to wield economic sanctions more effectively than their democratic counterparts. Consider the interesting situation in United States-China relations: the threat and/or application of United States sanctions against China in the post-Tianamen period has been ineffective in changing China's human rights policies and practices. In contrast, the threat and/or application of Chinese sanctions against the United States, in terms of reducing economic opportunities in China for United States business while increasing them for our economic competitors, has been quite effective. Indeed, the current United States Administration has largely surrendered our hitherto major economic sanction technique for securing Chinese compliance with international standards of human rights by decoupling the granting of Most Favored Nation status from human rights performance exactly as demanded by the Chinese government!

In terms of this theorem, the sanction target against which an American program is likely to be most effective is a State like apartheid South Africa, in which a distinct commercial elite stands to suffer significant deprivations as a result of the sanctions and is in a position to influence the political elite. For the same reasons, the United States is likely to be a prime target for effective economic sanctions programs mounted by other States with whom we have important economic ties. The least auspicious sanction target is a State like Castro's Cuba, where there is no independent wealth elite and the political elite and its security apparatus are not oriented to or likely to be affected by wealth deprivations.

The critical factor in this theorem is the degree of political relevance of the internal wealth elite. A corollary to this theorem holds that the sanction program will fail, despite the political relevance of a wealth elite that is suffering the brunt of the sanctions, when the sanction program itself generates a new politically relevant wealth elite that actually benefits from the sanctions. Thus, in General Cedras' Haiti, the existing wealth elite suffered from the sanctions, but its influence on the military dictatorship was more than counter-balanced by a new elite which was enriching itself by trade in contraband and other transactions which had become profitable, thanks to the sanction program itself.

Three: Sanction programs will be less effective when the target's elite has or can acquire supportive contacts within the sanctioning State. Thus, China can retain law firms, public relations firms, business lobbies, and consulting firms composed of former high officials who continue to have great influence on policy in the United States, while the United States is unable to acquire comparable instruments of influence in China.

Four: Sanctions will be less effective when the political economy of the target is sufficiently varied to adapt itself to the exigencies of the circumstances. Thus, an economy based on a single commodity, such as sugar is less able to diversify and respond effectively to a broad sanction program. In contrast, a diversified economy, like that of Panama, is likely to be able to mount many defensive or adaptive measures to blunt the force of sanctions.

A corollary to this theorem would hold that the degree of authoritarianism of the regime of the target State will affect its mono-cultural economic vulnerability. The more authoritarian the regime, the more it can compensate for its economic vulnerability.

Five: In circumstances in which there is a high degree of interdependence between the sanctioner and the target, such that many of the deprivatory effects of the sanction program will be felt by economic factors within the sanctioner, the sanction program is less likely to be effective, in proportion to the political relevance of the domestic factors likely to be hurt by the sanctions, for there will be pressure within the sanctioning State to reduce the scope and intensity of the program to an essentially symbolic level. In these circumstances, one may find, under the rubric of an economic sanctions program, what is essentially a propagandic program, one of whose critical targets is that part of the targetting State's constituency who are demanding action and who are, thus, reassured that "everything" possible is being done when in fact virtually nothing is being done. This does not mean that the resulting symbolic sanction program has no political meaning, as I explained earlier. United States' responses to China may be an example of this theorem.

Six: In situations of bipolarity, an economic sanction imposed by one superpower against a smaller State is unlikely to be effective because the smaller State has the capacity to turn to the other superpower to supplement what has been deprived. Thus, during the Cold War, Stalin's economic sanction program against Tito's Yugoslavia failed because Tito was able to turn to the West, which eagerly and generously embraced him. Conversely, the United States' sanction program against Cuba at the end of the Eisenhower Administration and thereafter was largely ineffective, because (and as long as) Cuba could turn to the Soviet Union.

A corollary to this theorem is that in situations of competitive multi-polarity, the unilateral imposition of sanctions is less likely to be effective. The operational implication of this corollary is that in situations of multipolarity, unilateral sanctions should be channeled through international organizations so that as many States as possible are obliged to participate in them. The compromises necessary to win organizational support may be more than compensated in the effectiveness of the narrower but multilateral program.

A second corollary to this theorem is that in market situations of intense competition, economic sanctions mounted unilaterally are unlikely to be effective insofar as the target State can develop alternative supplies or markets.

A third corollary holds that short-term programs are more likely to be effective with respect to goods that cannot be stockpiled and/or are seasonal, e.g., highly perishable fruit, for the more perishable the items involved, the less real-time opportunity for the target to find and arrange an alternative market.

A fourth corollary to this theorem is that in circumstances in which the sanctioning State enjoys a monopolistic or monopsonistic relation with the target, its sanction program is likely to be more effective.

Seven: The more civilians and non-combatants suffer in the target, the more popular indignation in other States (and even in the sanctioning State) will be directed against the sanctions. Hence the target will use the propaganda instrument intensively. Planning for extended sanction programs that cause wide-spread collateral damage will, accordingly, require coordinate propagandic programs that justify the continuation of sanctions to politically relevant strata whose support is necessary for the sanction program.

Eight: Many of the preceding theorems suggest that the effectiveness of a sanction program may be enhanced by making it plurilateral or international. A sanction program conducted through the United Nations Charter, under Chapter VII, has the benefit of being obligatory on all other States' parties by virtue of Article 25 of the Charter as well as having a monitoring mechanism that is not associated directly with the State primarily interested in having the sanction program.

Other theorems may be generated, but even the limited selection of theorems we have examined this morning should confirm that economic sanctions can be a powerful and often destructive instrument. As in all politics and law, much depends on an understanding of the instrument and the context and the skill of the hands of those who shape and wield it. But properly designed and used intelligently in the appropriate contexts, economic sanction programs can be as effective as Wilson argued. Indeed, precisely because of their potential destructiveness and comparative inability to avoid collateral damage, their application should always, as I have argued elsewhere, meet the fundamental international legal tests for the lawful use of force.[3]

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3. Michael Reisman, *Assessing the Lawfulness of Non-Military Enforcement: The Case of Economic Sanctions*, PROCEEDINGS OF ASIL, Apr. 8, 1995.