

UN Sanctions and Conflict

Written by Andrea Charron

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ANDREA CHARRON, AUG 1 2013

Despite the fact that UN sanctions are the most commonly applied tool by the UN Security Council (Council) to deal with conflict, they are criticized and dismissed as either totally ineffective, or worse, disingenuous attempts to be seen to be doing something with the least possible costs to the Council.

These conclusions, however, are facile; UN sanctions have done far more to resolve conflicts than is credited, but they are not a magic bullet and the “good” they have done must be measured carefully and over long periods of time. There have been, of course, spectacular failures, but the lessons of these failures have helped refine sanction policy to be a more nuanced, effective tool. Modern sanctions are targeted and tailored to the specific context of the conflict – a far cry from the early 1990s when comprehensive measures blanketed Iraq, the Former Yugoslavia and Haiti, resulting in extreme, unintended humanitarian consequences that erased many of the “apparent virtues of UN sanctions in terms of legitimacy and universality...”[1]

A Powerful and Flexible Myriad of Responses

The word *sanction* is not found in the UN Charter. Located in Chapter VII of the Charter (meaning it creates binding obligations for all member states), the Article used to authorize sanctions (Article 41)[2] is non-prescriptive, providing only some suggested examples of sanctions-like responses. Any measures “short of force” are deemed acceptable by the Article, and the Security Council has taken full advantage of the freedom provided by this one restriction. While arms embargoes remain the most commonly applied sanctions, commodity restrictions (such as against diamonds and timber) travel bans (especially against individuals), financial asset freezes (against states, groups, companies and individuals) and general economic sanctions (for example, against luxury goods or dual-use material) are some of the panoply of measures that have been applied. As well, they can be applied against different targets, from entire states, to particular geographic regions, from groups to individuals and their associates. Moreover, these measures can be strengthened (by applying them to a greater category of items, activities or individuals) or lessened (for example, by lifting restrictions against individuals, items or geographic areas), making them a far more nuanced coercive tool than force. Whether the sanctions are voluntary (meaning states have the option or not of applying them) or mandatory (meaning, by law, all member states must give effect to the measures), they can be an important tool in constraining targets – the voluntary UN sanctions against apartheid South Africa in the 1970s and 80s[3] and mandatory arms, natural resource, financial and travel sanctions against Liberia[4] are among the most famous and most successful. Sanctions against South Africa and Liberia, however, were/are in place for decades. Sanctions, therefore, are not a tool of haste.

Not a Lone Response

UN sanctions are never applied in isolation. They are designed to complement other measures taken by UN, individual states and regional organizations to influence an outcome. In the case of civil wars, the conflict type most likely to be subject to UN sanctions, measures are often applied after a peace agreement is in place and (usually regional) troops are on the ground. UN sanctions, therefore, are one of the key ways by which the UN Security Council underlines its support for regional conflict resolution efforts and also puts all parties to a conflict on notice that the Security Council is tracking developments. In many cases, therefore, UN sanctions are a mirror or version of sanctions applied by regional organizations (for example, calls by the African Union to sanction Eritrea for

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undermining peace efforts in Somalia^[5]), amplifying both the successes and flaws of these regional efforts.

A Tool of African Conflicts

Africa has been on the agenda of the UNSC more often than any other continent, and sanctions are a key reason. Of the 57 UN sanctions episodes applied since 1990, 37 (or 65%) have been levied at targets in Africa. And of those 37, 27 (or 73%) are directly related to attempts to end a conflict, i.e., to cease hostilities, persuade sides to return to the negotiating table, support peace building efforts, etc. Two cases (recently against Libya) are in direct support of protecting civilians, three are in support of efforts to re-establish constitutional order (Sierra Leone, Côte d'Ivoire and Guinea Bissau) and five to counter terrorism (Sudan in two cases, and Libya in three).^[6] The glaring omission is the application of sanctions to improve human rights; no sanctions have been applied solely for this purpose, not just in Africa, but around the world. Indeed, it remains a consistent failing of the Security Council to address human rights abuses other than to express disgust or concern or to appoint a subsidiary body to investigate. Arguably the UN, outside the Security Council, has attempted to address human rights situations but their power to do so is limited.

WMDs and Sanctions: Speed Bump, Not Smoking Gun

Sanctions against North Korea, Iran and Iraq, states believed to be bent on producing weapons of mass destruction in violation of international law, receive the most news coverage. By and large the media have deemed these measures the least effective for a number of reasons, but principally because sanctions are mistakenly expected to change state behaviour and policies directly. This is the job of the state in question and interested, powerful states intimately connected to the offending state (such as the US, South Korea, China, the EU and Japan in the case of North Korea) and/or for organizations, like the IAEA which can negotiate/verify such changes behind closed doors. Instead, sanctions constrain proscribed activities by restricting access to essential resources such as funds, arms and precursor materials, thereby raising costs and forcing changes in strategy, and/or stigmatizing targets for not supporting international norms and laws. These two outcomes are very important and provide the political space and, most importantly, time to the interested parties to extend/continue negotiations. Sanctions are not a cure, but rather a series of speed bumps that aim to slow momentum and cool the intensity of the conflict.

The UNSC is the First to Seek Assistance and Information

The UNSC is painfully aware of the errors it has made in the past. In a non-paper penned by the permanent members of the Council in 1995, they pledged to assess objectively the short- and long-term humanitarian consequences of sanctions in all future decisions.^[7] The result is that all sanctions are now targeted, meaning they are measures that are designed to achieve their intended effect while limiting the impact on civilians. Sanctions, therefore, have evolved from dumb, comprehensive measures to "smart sanctions" (that seek to target the elites and key decision makers) to targeted measures with a distinct shift in focus from the offending action and its architects to the protection of the population. In other words, whereas sanctions in the early 1990s targeted an entire state (e.g. no flights in or out of Libya^[8]), targeting shifted to members of a group (for example Al Qaida) making them "smarter" than the total bans against an entire state.^[9] Now, there is a concerted effort to match the sanctions to the objectives sought with the impact to the general population in mind. Therefore, rather than open ended travel bans against coups leaders of Guinea Bissau, the bans come with clearly stated criteria for who may be listed for what reasons and what steps must be taken to have measures lifted.^[10] This does not mean that targeted sanctions do not have unintended consequences and/or that objectives are achieved all of the time. This also does not mean that target sanctions represent the end of sanctions evolution; there could be a return to comprehensive sanctions or, indeed, some new evolution to making sanctions even more precise in their targeting.

Given the complex nature of conflicts, the UNSC seeks input from various actors and employs an array of measures to ensure its response is appropriate. It consults with key NGOs (like Médecins sans Frontières and Human Rights Watch) to get a better sense of the extent of damage caused by the conflict. Panels of Experts are employed to advise it on sanctions busting activity, as well as new measures and targets to apply. The Council created its own working group to develop general recommendations on how to improve the effectiveness of UN sanctions ^[11], and has sought information from outside experts (like the sanctions consortium) and political affairs officers, especially

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the secretaries of Sanctions Committees from the Security Council Subsidiary Organs Branch, to keep them up to speed on the latest thinking in sanctions. Additionally, an ombudsperson, focal point and clearer procedures have been implemented in an attempt to improve the clarity and transparency of sanctions.

The UNSC Remains a Highly Political Group

Of course, any decisions taken by the UNSC are highly politicized and those who suggest otherwise are forgetting the lessons of the League of Nations. It is exactly because the League's Council was impotent and did not privilege the great powers of the day that it fell apart in the interwar years. The UNSC of today has great powers and privileges five states above all others (namely the US, UK, France, China and Russia) to make decisions about how "best" to maintain international peace and security. Whether reflective of today's population of states or not, the UNSC will always be confronted with states that invoke national interests to prevent collective decisions about sanctions (and other measures) to be taken. The age old problem of the Council's legitimacy has not been solved by the application of targeted sanctions. The choice of conflicts to address with sanctions, while greatly expanded, still leaves many wondering why Libya and not Syria; why Sierra Leone and not Zimbabwe; and why individuals like Joseph Kony or President Bashar al-Assad are not listed for sanctions by the UN.[12] These exclusions are tragic and leave the citizens to pay the ultimate price. In instances where the Security Council can agree to apply measures (whether because it is in the vital interest of at least one of the members of the Council and they can convince at least eight representatives to agree or, conversely, not of vital interest in which case members are indifferent to the measures applied and will readily acquiesce), international peace and security can be restored haltingly but never as a result of sanctions solely. While the UNSC has as its goal the maintenance of international peace and security, the international community is often looking to link the sanctions directly to the ultimate resolution of a conflict. This "effectiveness debate" is often in search of answering the question "what can be sanctioned to achieve peace?" rather than "are sanctions an appropriate response?", which is and should be the UNSC's main concern. The automatic dismissal of sanctions as pointless and ineffective obscures a basic fact: sanctions are only as good as the efforts of member states to give them effect. Unfortunately, few states invite close scrutiny of their actions in this regard.

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Andrea Charron holds a PhD from the Royal Military College of Canada and is Assistant Professor of Political Studies and Deputy-Director of the Centre for Defence and Security Studies at the University of Manitoba. Her book, *UN Sanctions and Conflict: Responding to peace and security threats* (New York: Routledge, 2011) details both the consistency of purpose and the logic of change across sanctions cases that have occurred in decades of Security Council action. Her latest research explores the interaction of African regional sanctions and UN sanctions. See "Sanctions and Africa: United Nations and Regional Responses", in *Responding to Conflict in Africa: The United Nations and Regional Organizations*, Jane Boulden (ed) (New York, Palgrave, 2013): 77-100.

[1] Margaret Doxey, "United Nations Sanctions: Lesson of Experience", *Diplomacy & Statecraft*, Vol. 11 (1) (March 2000): 1-18. Professor Doxey is referred to as the "Doyenne of Sanctions" in the academic world in recognition of her tremendous contribution to the study and research of sanctions.

[2] <http://www.un.org/en/documents/charter/chapter7.shtml>

[3] States were encouraged to restrict sports and cultural relations, suspend the sale of kugerrands, the South Africa currency, and adopt "new provisions" which would put added pressure on the racist government. See S/RES/569 (1985): 6a-f and 7.

[4] S/RES/1343 (2001). The diamond and timber sanctions were particularly helpful in supporting the Kimberley Certification process and encouraging the Liberian government to establish a forest management scheme. Sanctions were first applied to Liberia in 1992. The arms, financial asset freeze and travel bans are still in place.

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[5] S/2009/388. See also See Assembly of the African Union, Decision on the Report of the Peace and Security Council on its Activities and the State of Peace and Security in Africa, Assembly/AU/Dec. 252(XIII), 13th Ordinary Session, July 1-3, 2009.[5] Referencing this call in its resolution, the UNSC applied sanctions against Eritrea on 23 December 2009 pursuant to resolution 1907. The UNSC imposed an arms embargo against Eritrea in addition to travel restrictions and a freeze on the assets of its political and military leaders.

[6] This data has been collected by the Sanctions Consortium – a group of academics and practitioners (to which I belong) dedicated to the study of UN sanctions. See *Designing United Nations Targeted Sanctions: Initial Findings of the Targeted Sanctions Consortium Evaluating Impacts and Effectiveness of UN Targeted Sanctions* (August 2012) at: http://graduateinstitute.ch/webdav/site/internationalgovernance/shared/PSIG_images/Sanctions/Designing%20UN%20Targeted%20Sanctions.pdf A web app is also available at http://www.watsoninstitute.org/project_detail.cfm?id=4

[7] S/1995/300: annex. Letter dated 13 April 1995 from the Permanent Representative of China, France, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America to the United Nations addressed to the President of the Security Council.

See <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N95/109/22/PDF/N9510922.pdf?OpenElement>

[8] S/RES/748:paras 4a-b.

[9] S/RES/1267 (1999).

[10] S/RES/2048 (2012): paras 4-6.

[11] Created in 2000. Its final report was released in 2006. See S/2006/997 at http://www.un.org/ga/search/view_doc.asp?symbol=S/2006/997.

[12] This particular line of reasoning, however, is fallacious: the apparent selectivity of cases is not license to question the legitimacy of the other, unrelated cases.

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