

USAWC STRATEGY RESEARCH PROJECT

**MAKING IT WORK: U.S. ECONOMIC SANCTIONS IN IRAQ**

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The views expressed in this academic research paper are those of the author and do not necessarily reflect the official policy or position of the U.S. Government, the Department of Defense, or any of its agencies.

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## **ABSTRACT**

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This research project will proceed from a brief general examination of the use of economic sanctions as an instrument of policy to an examination of the specific case of economic sanctions currently used against Iraq and the smart sanctions regime suggested recently by Secretary of State Colin Powell. My analysis will lay out basic areas of criticism and briefly look at how well current U.S. and UN sanctions policy toward Iraq fares in the face of these objections. This will set the stage for an examination of the notion of a smart sanctions regime as a potential solution to reconcile some if not all of the problems extant in the consideration of sanctions regimes as a viable and acceptable instrument of policy in use toward the attainment of U.S. political objectives in Iraq.



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## **PREFACE**

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## **MAKING IT WORK: U.S. ECONOMIC SANCTIONS IN IRAQ**

Economic sanctions are currently a prominent feature<sup>1</sup> of the political landscape and likely to remain so. An instrumental use of the economic element of power to achieve policy objectives, economic sanctions imposed by one nation on another have a set of intended effects. However, often the effects fall short of the mark or result in unintended consequences of varying degree and kind. When a sanctions regime fails to contribute to the attainment of a policy objective or contributes in ways deemed to be unacceptable, there seems to be no viable option short of changing the character of the sanctions regime to render it more efficacious and less damaging. This appears to be the case with the comprehensive sanctions regime that comprises a good portion of the current U.S. policy toward Iraq.<sup>2</sup> Unintended humanitarian consequences, stagnation, sanctions fatigue, and difficulty of enforcement are among the problems that have plagued the U.S. in its attempts to meet its policy aims for Iraq. With the advent of the George W. Bush administration, the policymakers are gesturing toward a change from the current comprehensive sanctions regime to one more focused and forceful, a regime of smart sanctions. This paper examines the potential efficacy of adopting a smart sanctions regime toward Iraq. Beginning with a cursory examination of sanctions as they have evolved in recent years as the “peaceful, silent, and deadly remedy”<sup>3</sup> of choice, moving through a discussion of the major avenues of criticism toward sanctions in general, and finishing with an analysis of a smart sanctions regime in the context of Iraq, this paper will show that there is no choice but to focus and refine the U.S. policy of economic sanctions toward Iraq if the U.S. expects to move toward attainment of its policy aims.

### **SANCTIONS: AN EXERCISE OF ECONOMIC POWER**

In an anarchic world of nation states unbridled by any kind of effective world governmental organization, nation states must band together to exert coercive force on other nation states that violate the norms reasonably accepted by the international community. The ultimate coercive force is, of course, waging war. However, short of the violent force that is war, the international community has an arsenal of flexible options available. These options provide the potential to fulfill both the moral and practical obligations the international community has toward an offending nation having so violated international norms as to make response, whether retributive or otherwise, imperative. Among those options, a regime of economic sanctions is but one tool, an exercise of the economic instrument of power to achieve policy objectives. In concert with other options found within the political, military, informational, and economic instruments of

power, economic sanctions are often an important facet of a complex policy approach taken by the international community to respond to another state's objectionable behavior.

In very general terms, economic sanctions are "restriction[s] on normal commercial relations with the targeted country"<sup>4</sup> and are "best considered as instruments of coercive diplomacy to persuade decision makers in the targeted state to reassess the costs and benefits associated with policies that have attracted the ire of the international community."<sup>5</sup> For the purposes of this paper and most of the scholarly debate on this topic, the definition of economic sanctions for reasons of foreign policy excludes trade policy issues related to market access.<sup>6</sup> For example, tariffs and import quotas are not considered economic sanctions. Specifically in the context of U.S. policymaking, sanctions constitute a facet of "preventive diplomacy"<sup>7</sup> in the form of a "collection of actions that the government takes to directly restrict the flow of goods, services, or capital between the United States and another country."<sup>8</sup>

A comprehensive sanctions regime is one that restricts trade and finance in all categories unless specific exemptions are processed. In the case of Iraq after its 1990 invasion of Kuwait, United Nations Security Council Resolution (UNSCR) 661 established a multilateral embargo on trade and finance followed almost immediately by UNSCR 665, a resolution authorizing all appropriate measures to enforce these embargos.<sup>9</sup> The comprehensive nature of this set of sanctions was designed to send a clear signal to Iraq, and, more importantly, it was designed to prevent the plunder of Kuwait by locking up Kuwaiti financial accounts and trade activity as well under the same UNSCRs.<sup>10</sup> During Iraq's occupation of Kuwait, this set of sanctions remained in effect for all trade and finance dealings emanating from either state. Comprehensive sanctions regimes of this sort are the limiting case at one end of a spectrum with completely unimpeded trade and finance at the other end. A regime of smart sanctions, an example of which develops in the following pages, falls somewhere between these two extremes.

Sending nations impose economic sanctions on the target nation to achieve foreign policy objectives that fit into five basic categories:

- To change target nation policies in a modest way (terrorism, human rights)
- To destabilize the target nation's government (Castro, Noriega, Tito)
- To disrupt a minor military adventure (Falklands)
- To impair the military potential of the target nation (Treaty of Versailles)
- To change the target nation's policies in a major way (apartheid).<sup>11</sup>

Sending nations impose economic sanctions on a target nation using three distinct means: “by limiting exports, by restricting imports, and by impeding finance, including the reduction of aid.”<sup>12</sup> Sending nations have motives that undergird their use of sanctions as a means to meet objectives. They seek to demonstrate resolve and express moral outrage, to deter future aberrant behavior, and to employ means stronger than mere diplomacy but short of military action.<sup>13</sup>

Sending nations also seek the strength of collective power by forming a coalition of nations committed to support the tenets of the sanctions regime, to enforce the sanctions regimes within their own business communities, and to encourage other nations to join the sanctions effort. The ultimate achievement of collective effort comes in the form of a United Nations Security Council Resolution (UNSCR) that establishes a sanctions regime. This amounts to a public and formal policy declaration that can have the force of law. Economic sanctions cannot succeed without a collective effort, and this effort must be almost seamless in order to preclude the leakage that undermines the trade restrictions designed to compel the target nation to change its behavior.<sup>14</sup>

### **CRITICAL ANALYSIS OF SANCTIONS REGIMES**

This discussion of terms of definition and attributes operates only from the perspective of the sending nation. It is essential to this discussion that one consider the effects of the sanctions on all concerned: sender, target, and third parties. The intended effects of the sanctions are tied directly to the scope of the sender’s motives and policy objectives. For example, motives that focus on the unacceptable behavior of a state’s majority population are apt to lead to more damage to the population than motives focused on political leadership.<sup>15</sup> That is, a set of sanctions purposefully directed at the majority population of a nation whose offenses are meted out on a minority segment of the population is apt to cause more humanitarian damage, as the target of coercion is the people. Conversely, if the political objectives and motives of the sending nation focus on a group of tyrannical elites, the sanctions regime is apt to cause less damage to the hapless population than one specifically directed at the population. Thus, for example, if motives and objectives affect episode design and implementation, this can, in turn, affect the balance between the intended and unintended humanitarian consequences of the sanctions.

Although many of the objectionable consequences resulting from the imposition of a sanctions regime are in fact unintended, they may be foreseen. The unintended deleterious effects of the sanctions seem to rest on a very complex foundation comprised of the target

state's characteristics, third party costs, and sender nation costs. These warrant strong consideration in their combinations and permutations at the outset of policy formulation. The impact of sanctions can be exacerbated by the chaotic conditions long extant within the target nation when the sanctions regime is imposed.<sup>16</sup> Sanctions can accidentally set conditions that serve to bolster the strength of the regime within a target nation ruled firmly by a brutal dictator, often the opposite effect intended.<sup>17</sup> The damaging reaction of the offending leadership should be expected. They have already shown behavior sufficiently bad to bring on an imposition of sanctions, and the impetus for the sanctions is often forgotten by the target nation's leadership as they rage against the perceived injustice of being forced to live under a sanctions regime.

Third party costs can range among lost trade revenues, lost worker compensation in border states, and failed extant debt repayment.<sup>18</sup> If not managed adequately by provisions in the sanctions regime, mounting costs to third parties render violations of the sanctions an irresistible temptation or even a necessity for a third party nation struggling under the burden of the sanctions regime. Sender nation costs are typically the least devastating because sanctions are most often an asymmetric activity, wherein an economically strong nation imposes gross restrictions on a far weaker or more fragile target.<sup>19</sup> There is little effect on the GDP of a strong sender nation, although individual businessmen may feel the effects much more strongly.<sup>20</sup>

While the host of ill effects attributable to a sanctions regime seems to vary in degree but not in kind from one episode to the next, there is enough political literature in place to inform policymakers of the potential trappings associated with sanctions. Given the body of historical knowledge and the fair amount of consistency in the literature as to the sorts of unintended effects resulting from sanctions regimes, it should be part of the sending nation's policy decision as to how much and what kind of damage it deems to be acceptable morally or legally in order to accomplish policy objectives. Thus, if the sender nation's political objectives are extreme and motivation is very firm, it is plausible that the hesitation to incur serious consequences from a comprehensive sanctions regime might be overridden by this intensity of purpose. In the case of Iraq, for example, this phenomenon appears in the U.S. policy devotion to the removal of Saddam and the refusal to lift sanctions unless that occurs.<sup>21</sup>

Sometimes used as an alternative to war and sometimes as a prelude to war,<sup>22</sup> economic sanctions as an instrument of policy are far from perfect in their ability to accomplish policy objectives. There are three basic categories of criticism of the use of economic sanctions, but they are not equally compelling. Sanctions have consistently had the largely unavoidable flaw of being a blunt policy instrument,<sup>23</sup> even in concert with other instruments

they do not achieve their objectives well or quickly;<sup>24</sup> and they impinge on free trade and political sovereignty.<sup>25</sup> A government opting to impose economic sanctions among the means employed to accomplish its political objectives must reply to these objections in the policymaking process. Answering these criticisms through policy formulation is not merely an academic exercise. Rather, it is essential to increase a sanctions regime's effectiveness, to secure the cooperative effort of the international community, and to reconcile the seemingly aggressive nature of sanctions with the international community's need to act in response to the target nation's egregious behavior. Discussion of these three areas of criticism illuminates the way toward changes to sanctions policies in general and in the case of Iraq in particular.

Economic sanctions are a blunt instrument. The strongest criticism of economic sanctions is that they tend to punish the citizenry of the target nation more severely than they punish the leaders of the target state. In effect, they miss the mark because the leaders whose objectionable policies are the subject of the sanctions are often in control of enough of the systems in the country to mitigate the effects of sanctions for themselves and their inner circle. The reply to this objection takes the approach that the citizens of a targeted nation "will exert political pressure on their government to force either a change in policy or a removal of wrongdoers from office."<sup>26</sup> However, this is a naive<sup>27</sup> and illogical assertion that a relationship of implication exists between economic damage and political change. "There is no assurance that a sanctioned population will redirect the pain of external coercion onto political leaders and force a change in policy, especially with the authoritarian or dictatorial regimes that are the usual targets of sanctions."<sup>28</sup> Further, the abhorrent conditions that can evolve through a lengthy sanctions regime can actually serve to "undermine the economic position of middle-class professionals who often support democracy and political reform."<sup>29</sup> So, while making the citizens of a targeted state extremely miserable, the sanctions also serve to render them less capable of bringing about the sorts of changes sought by the sending nations. The humanitarian impacts of the sanctions policy toward Iraq are a case in point. The force of this criticism is most persuasive in the rubric of humanitarian effects, if for no other reason than the emotional, publishable nature of these effects. Harking back to the other two areas of criticism, the impatience of policymakers and the musings of international law specialists pale in comparison with the horrifying scenes of starving children, homeless elderly, and heartrending widows.

Economic sanctions, even when used in concert with other means, are largely ineffective. Although there is much debate as to the definition of success, a practical view is that to declare success, the policy objectives must have been met and the economic sanctions

imposed must have contributed significantly to that end.<sup>30</sup> Setting aside the omnipresent symbolic objective of expressing outrage, one is concerned here with substantive objectives such as those the U.S. has for Iraq. Clearly, if the objectives have not been met, there is no success. Similarly, if the sanctions did not contribute in some observable and meaningful way, they were a redundant effort at best and completely superfluous at worst. While there is an extensive and interesting litany of economic sanctions and their policy objectives, the success rate is unimpressive as “they are of limited utility in achieving foreign policy goals that depend on compelling the target country to take actions it stoutly resists.”<sup>31</sup> Three of the most prominent scholars in sanctions literature have compiled exhaustive case studies and surveys of the sanctions regimes in effect since the conclusion of World War I, regimes involving any individual sender nation, and regimes involving the United Nations (UN). Hufbauer’s survey lists its aggregate success rates at 34% overall.<sup>32</sup> Cortright and Lopez survey the sanctions imposed by the UN Security Council in the 1990s and find that of the eleven regimes they examine, none achieved full and rapid compliance and only three cases (Libya, Iraq, and Yugoslavia) were partially successful.<sup>33</sup> Thus, at this point, sanctions regimes appear to cause numerous unintended deleterious effects, and for all that trouble, they do not seem to succeed.

Economic sanctions can be interpreted as acts of aggression. The options available to exercise economic, military, diplomatic, or informational instruments of power fall along a spectrum that has an ineffectual diplomatic hand waving at one end and total war at the other. Somewhere along this spectrum lies the point at which occur violations of a state’s sovereignty over its own activity and transgressions of the integrity of its territory. For example, in the rubric of informational instruments, short of that point on the spectrum, a state is harassed through propaganda rather than attacked through computer viruses designed to shut down an urban power grid, which is arguably beyond that violative point. While even military force as an option of the military instrument of power can be arrayed along the entire spectrum with sword brandishing at one end and nuclear annihilation at the other, economic sanctions do not fit that pattern.

As a specific option of the economic instrument of power, economic sanctions will always, by definition, fall on the violative end of that spectrum. By definition, sanctions regimes impinge on the sovereignty of the target by limiting trade, finance, and the movement of persons. They certainly affect third parties who find themselves voluntarily or by coercion limiting trade and financial dealings with the target at the behest of the sender. Given that the territorial integrity and political sovereignty of a nation are matters of vital national interest, sanctions are surely seen by the target as an act of aggression confronting the state’s

sovereignty in its chosen trade and finance dealings with other nations. A sender nation's decision to employ economic sanctions "presupposes the sender country's willingness to interfere in the decision-making process of another sovereign nation."<sup>34</sup> Although far less inflammatory than the spectacle of humanitarian disasters attributed to sanctions, the notion of the legality of sanctions and the measures taken to enforce them strikes a very deep cord when the effects are meted out in the form of embargos, restrictions of oil transit agreements, restrictions on the purchase of dual-use technology, and import restrictions that affect third parties. So, sanctions regimes fall prey to the general criticism that they are of questionable legal status, they cause undue suffering in the target state, and they are largely inefficacious.

Given this seemingly abysmal recommendation for sanctions as an instrument of policy, why are they so prevalent?<sup>35</sup> Although the international community cannot live with them, they cannot live without them either. Sanctions are paradoxical. They fit into a realm of marginally effective policy means while occupying a niche of moral necessity emergent from just war theory traditions. The just war tradition, which informs the customs and laws that limit acts of aggression and conduct in war, has two main facets, *jus ad bellum* and *jus in bello*. It is the former that illuminates the sanctions paradox. *Jus ad bellum* refers to the justice of entering into war. The theory lays out the severally necessary and jointly sufficient conditions that must be met for a nation to declare that it has justly entered into war. Among these necessary conditions is the requirement that a nation enter into war only as a last resort.<sup>36</sup> Presumably a target nation has violated international law, custom, or norms to a sufficient degree as to incur the condemnation of other nations.<sup>37</sup> There is a variety of diplomatic means available to express outrage at a nation's acts of aggression. However, when tepid diplomacy is too mild and military means are too harsh or unwarranted, nations seek a middle ground between them. For this, sanctions are most often trundled out as the "junior weapon in a battery of diplomatic artillery aimed at the antagonistic state."<sup>38</sup> Diplomatic weaponry is an accurate description for, while it is not an overt act of aggression, it is a forceful response and one that serves as a prelude to an aggressive response on the part of the sender.

The imposition of a comprehensive regime of sanctions is extremely coercive, publicly administered, and very difficult to withstand when coupled with diplomatic, informational, and minor military means. Although it is difficult to demonstrate the necessity of economic sanctions as a condition of *jus ad bellum* with a positive argument, it is easily approached from another angle. The necessity of employing economic sanctions is more evident as a *reductio ad absurdum*. In other words, it would be absurd to continue to conduct trade and finance with a state in gross violation of international norms as if all were well. The international community

feels compelled to do something in response, but to continue normal trade and finance activity is inconsistent when a state's objectionable behavior justifies a response of outrage. Furthermore, in the event that the targeted state does not change its behavior, uninterrupted trade and finance may actually have exacerbated the situation by allowing the target state to increase its ability to threaten other states.

Sanctions are a packaged deal; they must be defined, shared and enforced. The level to which the sanctions are defined as a comprehensive regime or something less, the degree to which other nations share the burden and comply with the original sender's sanctions, and the commitment to enforcement all combine to indicate the seriousness of the target nation's offenses in the eyes of the sender. This seriousness is, in turn, directly related to the possibility that there could be a war if the target does not rectify the situation.<sup>39</sup> On a path that may lead to war, the imposition of economic sanctions is an act that could succeed in averting that crisis. As such, nations must impose sanctions or they will not have exhausted all reasonable possibilities before they declare war. In the event of a failure to exercise a sanctions regime, nations would not have entered into war as a last resort, one of the necessary conditions set forth in the just war tradition. Thus, the international community is trapped by its just war traditions and feels compelled to employ sanctions when they scarcely seem to be a feasible, acceptable, or suitable means.

### **U.S. SANCTIONS IN IRAQ**

The cumulative success record of economic sanctions, the ugliness of the unintended consequences, the disruption of free trade and sovereignty, and the regrettable necessity of employing sanctions despite these shortcomings demand a change in the way nations employ sanctions to meet policy objectives. The U.S. policy toward Iraq, bolstered by the longest and most comprehensive sanctions regime ever enacted by the UN,<sup>40</sup> is a case in point. The sanctions episode currently ongoing in Iraq serves as an illustration of each of the categories of criticism explored above: the sanctions regime in concert with other aspects of U.S. policy toward Iraq has not met U.S. policy objectives; Iraq's consistently bellicose behavior since 1990 lends *jus ad bellum* concerns much relevance; and the recent change in administrations signals the time for a change in policy.

Since tightening and making the sanctions more comprehensive is liable to exacerbate unacceptably the humanitarian disaster and terminating the sanctions now fully endorsed by the UN and the vast majority of its member nations<sup>41</sup> would be appeasement of Saddam's bellicose behavior, the solution appears to be refinement of the sanctions regime in place and, ultimately,

looking at the complete policy approach. This refinement to the “art of sanctions statecraft lies in applying sanctions that are sufficiently forceful to persuade targeted leaders to move toward political compliance while avoiding severe humanitarian impacts that undermine the viability of the policy and of the instrument itself.”<sup>42</sup> The development and subsequent implementation of a focused set of sanctions, a smart sanctions regime, is well within the capabilities of the U.S. policymakers who have a considerable body of evidence and academic information available. “The essence of a smart sanctions strategy is tailoring sanctions to meet specific objectives and focusing coercive pressure on particular groups and resources.”<sup>43</sup> To analyze and evaluate the smart sanctions regime sketched out for Iraq by Secretary of State Colin Powell, it is necessary to understand U.S. objectives, the various economic sanctions options available, and the way in which these means could be employed to maximize the desired effects to the targeted leadership while minimizing the unintended, deleterious effects to the citizens of Iraq and third party nations.

As articulated in the National Security Strategy published in December 2000 and as yet unchanged by the current administration,<sup>44</sup> the U.S. policy toward Iraq has three primary objectives: “containment, humanitarian relief, and regime change.”<sup>45</sup> More specifically, the policy toward Iraq is “containment to prevent Saddam from again threatening the stability of the vital Gulf region; relief for the Iraqi people via the UN oil-for-food program; and support to those Iraqis seeking to replace Saddam’s regime with a government that can live at peace with its neighbors and its people.”<sup>46</sup> Bolstered by the Iraq Liberation Act of 1998<sup>47</sup> and a series of UNSCRs,<sup>48</sup> the U.S. has taken the lead in the imposition of economic sanctions and the application of military force to enforce the resolutions. However, the participation in the UN sanctions regime has not been uniform throughout the international community as sanctions fatigue<sup>49</sup> takes hold in spite of the forceful and specific language of these resolutions. Similarly, the U.S. Executive branch has not taken full advantage of the authority granted to it under the Iraq Liberation Act of 1998,<sup>50</sup> which allows the President to spend \$97 million annually on programs targeted at regime change in Iraq.

As the U.S. passes the 10-year anniversary of the comprehensive sanctions regime in Iraq, there is no indication that the current U.S. policy is on track to achieve its objectives.<sup>51</sup> It has become abundantly clear as well that the international community is having little or no effect on Saddam and “ultimately cannot prevent leaders [like him] from making decisions based on ignorance, folly, the self-serving or self-induced distortion of reality, or a conscious willingness to court disaster.”<sup>52</sup> While the U.S. can acknowledge minor successes in containment, that is,

Iraq's bellicose behavior has been kept within its borders and limited against the Kurds and the Shi'ites, the U.S. has not succeeded in halting Iraqi work toward the continued production of weapons of mass destruction (WMD).<sup>53</sup> In the area of humanitarian assistance, the picture is quite bleak.<sup>54</sup> Infant mortality rates are among the worst in the world, and the daily caloric needs of women, the elderly, and children are severely under resourced.<sup>55</sup> As for regime change, Saddam Hussein remains apparently firmly in control of the government of Iraq. Given the enduring nature of Saddam Hussein's domestic brutality in his exercise of governance and his wanton disregard for the abject misery of his citizenry, and given his arrogant flouting of the UN resolutions directed at dismantling his WMD programs, there is no available evidence to suggest that the current set of circumstances will move substantially toward the achievement of U.S. policy objectives with the next decade.<sup>56</sup> Currently the policy objectives of containment, humanitarian assistance and regime change are still applicable in Iraq and consistent with the three National Security objectives: "enhancing security at home and abroad, promoting prosperity, and promoting democracy and human rights."<sup>57</sup> The manner in which the U.S. pursues these aims rests on a comprehensive economic sanctions regime that is reinforced in the international community by multiple UNSCRs, the most important of which is UNSCR 1284, "a new omnibus resolution on Iraq...[that] expands the humanitarian aspects of the oil-for-food program, ...provides for a robust new inspection and monitoring regime, ... [and] would allow for full Iraqi cooperation with the UN arms inspections and Iraqi fulfillment of key disarmament tasks."<sup>58</sup>

The current comprehensive sanctions regime that comprises a major facet of U.S. policy toward Iraq seeks to achieve policy objectives in virtually all of the categories listed in the first section. The U.S. certainly seeks to change Iraq's national policies in both modest and major ways as it puts pressure on Saddam for his treatment of the Kurds and the Shi'ites and for his threatening political stance on Israel. The goal of destabilization and regime change has the force of U.S. law and funding behind it. The disruption of a military operation persists as the U.S. continues to insist on Iraq's compliance with UNSCR 687, which restores Kuwait's national treasure and archives and pays reparations.<sup>59</sup> Perhaps the most contentious is the containment objective to impair Iraq's military potential through the UN program of inspections to dismantle Iraq's WMD.<sup>60</sup> The amount of international tension caused by Saddam's abject flouting of the UN Security Council's attempts to manage an inspection program has brought the political situation to the flash point several times in the last few years with little change to Iraq's military potential. However, U.S. experience with the government of Iraq from its 1990 invasion of Kuwait to the present has fueled the U.S.'s motivation to attain these objectives and to

guarantee a continuation of the high level of tenacity necessary to stay the course of the last ten years: desire to demonstrate resolve, need to express moral outrage, compulsion to deter further acts of aggression, and the requirement to carry this out through means much stronger than mere diplomacy, but short of an invasion. The U.S. has succeeded in keeping pressure on Iraq politically and economically coupled with the spectre of military action looming in the background. However, as is evident from the inefficacy of the current sanctions regime and from the “international community’s wavering equivocation on how to deal with Iraq,”<sup>61</sup> the current policy must change or it will be only a matter of time before the sanctions regime is essentially dismantled by lack of support from within the international community. The U.S. would then be faced with the choice of whether to continue unilateral support and enforcement of the UNSCRs in the face of erosion of international support. Given that a porous sanctions regime cannot be effective, the U.S. must move toward an approach more broadly supportable.

### **MOVING TOWARD SMART SANCTIONS**

Secretary of State Colin Powell, during the February 2001<sup>62</sup> visit to the Middle East, suggested a shift from the collapsing comprehensive sanctions regime to a UN-sponsored smart sanctions regime.<sup>63</sup>

Under a smart sanctions regime the Security Council would revamp the current embargo in favor of a modernized sanctions system aimed at the two key targets: the control of financial resources generated by the export of Iraqi oil, and the prohibition of imports of weapons and dual-use goods...Iraqi oil revenues and military-related imports would remain strictly controlled, but trade in civilian consumer goods would begin to flow freely...[F]ormer trading partners would thus be offered...the resumption of legalized civilian trade with Iraq, in exchange for their cooperation with tightened controls over oil revenues and weapons-related imports.<sup>64</sup>

Smart sanctions are sharpened to direct and intensify their effects toward specific targets while minimizing the deleterious effects to unintended targets previously bludgeoned by the sheer bluntness<sup>65</sup> of a comprehensive sanctions regime. In this case, U.S. policy would focus on, via UN policy, the prevention of importation of dual-use technology, the Iraqi leadership and elite, and the flow of cash from oil-for-food sales.<sup>66</sup> A concomitant effect of the shift to smart sanctions would be to minimize negative impact on the people of Iraq, the friendly neighbors, and former trading partners.<sup>67</sup> While the smart sanctions regime can potentially meet the U.S. objective of containment at least as well as the current sanctions regime and will most probably reduce significantly the unintended ill effects directly attributable to sanctions, it is unclear whether it will succeed under the third U.S. objective of regime change. This is potentially the

toughest objective to meet because, in general, “economic sanctions unassisted by companion measures seldom achieve destabilization”<sup>68</sup> and have not succeeded in this case despite the decade-long duration of this episode and its aggressive companion measures.

Although members of Congress<sup>69</sup> have made it abundantly clear by the enactment of the Iraq Liberation Act of 1998 and its funding that the displacement of Saddam is a firm Congressional policy objective, the George W. Bush administration has not endorsed such an open stance. Rather, Secretary of State Colin Powell has concentrated his emphasis on containment and elimination of Iraq’s WMD capabilities, an effort to “re-energize”<sup>70</sup> the sanctions, and a shift to concentrate on “the UN part of [Iraq] policy as opposed to the bilateral relationship with respect to Iraq.”<sup>71</sup> This seems to imply that regime change may not be as crucial to this administration as the immediate concern of modifying the sanctions regime to render it more effective for the objective of containment. Given the heavy influence of the U.S. in the UN as a member of the UNSC with veto authority, the U.S. can effectively block any UNSCRs that would not meet its policy objectives or make a reasonable compromise.<sup>72</sup> However, the U.S. seeks to use the continuing unprecedented<sup>73</sup> collective power of UN members in both passing resolutions and participating in the sanctions to keep pressure on Iraq. Should the U.S. succeed in influencing the change to a regime of smart sanctions, there is strong potential to address and resolve most of the major criticism leveled at the current sanctions episode. Perhaps the only unresolved issue would be the question of regime change as a policy objective of the previous administration and a continuing objective of many members of Congress. This is not to say that regime change could not occur with more effective sanctions contributing to set the conditions for a change in government in Iraq, but regime change is not a stated goal for the UN.<sup>74</sup> It may in fact occur as a concomitant effect of an improved sanctions regime, but it is not necessary that it be a shared goal. Since the current administration wishes to concentrate on the UN resolutions and their enforcement, by implication regime change will be subordinated to multilateral concerns. While the George W. Bush administration or Congress may decide to pursue unilaterally specific means to unseat Saddam, presumably these would be done with as little disruption to the UN sanctions regime as possible.

A smart sanctions regime tailored carefully for Iraq has good potential for success due to some of the characteristics of Iraq. Although these conditions were extant in the case of Iraq immediately after the invasion of Kuwait in 1990, most of them are still current. The invasion of Kuwait produced an unprecedented response in the international community. “Rarely before and not since has the international community been as united in condemning an act of

aggression and cooperating to reverse it.”<sup>75</sup> Iraq’s extreme economic dependence on oil exports has made it susceptible to an embargo fairly easily enforced by the major powers.<sup>76</sup> Since the oil boom, Iraq’s government has grossly neglected its agricultural sector, producing only one third of its food while importing \$2-3 billion worth of food in the years before 1990.<sup>77</sup> At the time of the invasion of Kuwait, Iraq was in the process of rearming and recovering from its protracted war with Iran. The ban on the delivery of “weapon-related imports prevented the regime from strengthening its principal power base, the armed forces.”<sup>78</sup> The attributes of Iraq’s current situation make the political ground more conducive to successful imposition of a sanctions regime.

However, two aspects of the conditions in Iraq threaten the effectiveness of a sanctions policy if not rectified: the humanitarian plight and the government of Iraq. By definition, a smart sanctions regime will address the human condition in Iraq despite the fact that Saddam himself has consistently been the major impediment to maximizing the oil-for-food program expenditures to meet the needs of his people.<sup>79</sup> The plight of the Iraqi people, the perception of which Saddam is likely to continue to exploit, has been the largest contributor toward erosion in support for the comprehensive sanctions regime of the last decade.<sup>80</sup> Furthermore, for the success of sanctions, “regime type matters significantly.”<sup>81</sup> The tyrannical regime of Saddam is absolutely ruthless and among the “most repressive and undemocratic governments on the planet.”<sup>82</sup> A smart sanctions regime should garner more international support not only because it will, by its nature, specifically address the major aspects of the human condition, but also because Saddam continues to be so ruthless, recalcitrant and threatening. While regional leaders would like a regime change in Iraq, none is apt to take the lead in bringing that about<sup>83</sup> but all may be willing to continue efforts to support a sanctions regime that could have that effect. Thus, the conditions in Iraq continue to be basically favorable to the continued use of sanctions, and the two limiting factors should have the unexpected effect of encouraging more support to the change to a smart sanctions regime thereby potentially mitigating the effects of Saddam’s stranglehold on his country.

A smart sanctions regime advanced by the U.S. for Iraq will find considerable support within the UN. Although “new in U.S. policy circles...[smart sanctions] have been the subject of a number of UN expert meetings in recent years.”<sup>84</sup> At the risk of being accused of appeasement,<sup>85</sup> the policy objectives should be harnessed to the UNSCRs in a way that allows accounting for partial compliance or failure, carrots and sticks.<sup>86</sup> This can be done by the design of the UNSCRs with allowances for suspension or termination of aspects of the

economic sanctions when Iraq complies with defined demands. Essentially, this dictates a redesign of UNSCR 687<sup>87</sup> to allow a flexible yet measured and pressured response.

Likewise, the UNSCRs must allow for rapid reinstatement of a sanction when Iraq shows specific decay in its behavior. Among the first steps is to revamp the current set of sanctions to aim “at two key targets: the control of financial resources generated by the export of Iraqi oil, and the prohibition of imports of weapons and dual-use goods.”<sup>88</sup> The aim must focus the pressure on the decision making elites while avoiding the bluntness of the regime currently in effect. This requires that they “design sanctions that deny assets and resources of value to decision making elites [and] avoid measures that adversely affect reform groups or opposition constituencies within [Iraq].”<sup>89</sup>

This amounts to the notion of “de-link[ing] the military-political aspects of the embargo from the economic-humanitarian ones.”<sup>90</sup> Accomplishing this fully would be extremely complex in practice. The minimum level of separation that is best for the people, most conducive to maintaining the collective international effort, and most hopeful for the ultimate political objectives is the separation of the humanitarian provisions (food, medicines, medical equipment) from the sanctions suspension and reinstatement mechanism. This would divorce the humanitarian programs from the unpredictable behavior of the Iraqi government. Saddam would lose his power to influence negatively humanitarian programs at the UN level. In turn this would deny him the ability to blame plausibly the humanitarian problems on the UN. He would be left with the option to let outside relief agencies proceed inside his borders or block them himself with policy, a move that could be easily exposed by an aggressive information campaign. The set of sanctions that will affect the Iraqi leadership and their inner circle the most is apt to include a comprehensive set of travel and finance restrictions that will freeze personal accounts and disallow travel for shopping, education, and foreign medical care for the elites and their families. Meanwhile, relaxing such restrictions on Iraqi common citizens will allow more exchange with the international community, “permitting ordinary Iraqis to learn more about the outside world’s concerns regarding Baghdad’s aggressive threats and proliferation activities, and letting the world learn more about the torture, summary execution, and lengthy prison terms of members of minority groups and those thought to be dissidents.”<sup>91</sup>

Modifications of this sort are essentially categorical. The sanctions regime will change from a broad mechanism that cuts across all types of trade and finance with specific exceptions requiring individual attention. The smart sanctions regime will take a different approach that excludes certain categories of trade and financial activity from the restrictions imposed. Thus,

some areas can be targeted, for example, weaponry and elites' overseas accounts, while others excluded, such as food, medicine, and water treatment chemicals.

How well do these changes respond to the various objections to sanctions policies in general? How well are these changes expected to advance conditions toward U.S. policy objectives? The first question demands analysis with respect to the notions of the bluntness, legality, and efficacy of a smart sanctions regime. Using the sorts of changes suggested above, flexibility, focus on leadership, carrots and sticks, and de-linkage of the humanitarian assistance from the political and military requirements, analysis of the potential unintended effects and revisitation of the legalist issues can occur. As for efficacy, that is tied directly to the second question and will call for prognostication. Before analyzing the sanctions critically, it is necessary to examine the finer points of the smart sanctions regime in key areas.

Perhaps the single most unfortunate result of the imposition of economic sanctions is the humanitarian disaster that inevitably occurs in the wake of comprehensive sanctions. However, it is extremely difficult to tease apart the humanitarian effects of sanctions from other causes of social and political disruption.<sup>92</sup> Given that sanctions are typically imposed in circumstances far less than ideal for a nation's people,<sup>93</sup> it is not unusual that substandard conditions are already in effect when sanctions are imposed. To succeed at one of its major objectives, the reduction of human suffering, the smart sanctions regime imposed on Iraq must include a pre-assessment of the conditions within Iraq before the change to smart sanctions and regular follow-up evaluations designed to provide a thorough assessment of any improvements or decay to the human condition in Iraq.<sup>94</sup> This assessment will provide the necessary evidence to adjust the sanctions as the Iraqi government either thwarts or complies with the UNSCRs.

Despite an attempt to assess the humanitarian concerns at the outset and to exempt these sorts of supplies from the embargoes, there will be exceptions not covered adequately by the wording of the UNSCRs. For example, the language of the UNSCRs may be mistakenly interpreted to exclude chemicals or equipment necessary for the repair, maintenance, and operation of sewage treatment and water purification facilities. In these instances, it will be necessary to secure additional exemptions from the embargoes in order to import essential supplies or equipment. The exemptions process is normally slow and laborious with hundreds of applications in the queue.<sup>95</sup> The reformed exemption process could grant permissions by item, by country of origin, or by institution.<sup>96</sup> Thus a trusted humanitarian relief organization or trusted trade partner could be granted a categorical exception to the policy with some mechanism for fair play in place.

Perhaps the last major feature essential to a smart sanctions regime specifically designed for its ability to avoid exacerbation of a precarious set of human conditions is the separation of the humanitarian aspects of the sanctions regime from the military-political compliance required. This further insulates the citizenry from the bad behavior of a repressive government. If non-governmental agencies under the supervision of the UN control the distribution of humanitarian relief supplies purchased through a sanctions escrow account, the UN will be able to influence this process. In the case of Iraq, Saddam would lose the opportunity to choke off supplies while placing the blame for the shortages wrongly on the sender nations. As humanitarian assistance continues with UN support despite his behavior, the strengthening of an internal opposition group becomes more feasible, a condition certainly necessary for regime change to occur with reasonable hope of success. With these improvements to the sanctions regime and a system firmly in place to assess impacts, improvement to the living conditions and future potential for the people of Iraq should see vast positive impact.

A sanctions regime produces unintended deleterious effects that harm not only individual citizens but also third party nations caught in the crossfire. The current comprehensive sanctions regime has been disastrous for Iraq's neighbors. Turkey's experience of the last decade as a neighbor of Iraq serves as a good example of unintended effects absorbed by a third party supporting the sanctions regime. The burden shouldered by Turkey illuminates the sorts of specific sanctions options available that ought to be incorporated into the smart sanctions regime. Prior to 1990, an important trade partner and essential oil pipeline transit partner, Turkey received \$400 million annually in oil transit fees alone and procured 60% of its imported oil from Iraq.<sup>97</sup> Abruptly halted by the sanctions, Turkey lost \$8 billion in export trade and has received no payment on Iraq's \$800 million debt.<sup>98</sup> The ability to focus a smart sanctions regime by providing categorical exemptions has the potential to mitigate the effects on third party nations. As a trusted NATO ally and with the enforcement of UN inspections, Turkey could, for example, be allowed to consistently export specific categories of goods or goods that are destined for exempted institutions designated by the UN. This would create trade opportunities within the acceptable boundaries of the sanctions that would mitigate the trade and financial strain on Iraq's trustworthy neighbors. The UNSCRs should also allow the limited sale of oil beyond the oil-for-food program, the proceeds of which could be used to make debt reparations in those countries that request payment via the UN escrow account held to control the funds generated by the sale of Iraqi oil. The nations that had provided pipeline access to Iraq prior to the sanctions should be the nations that receive the transit business. Although

these modifications will not completely mitigate the international effects of a collective sanctions sending effort on the part of UN member nations, they will serve to provide some relief that is virtually analogous to that which is directed at individuals.

Smart sanctions regimes seek to minimize the harm to the unintended victims, the ordinary citizens. The challenge also lies in the converse, increasing the disruption and damage to the intended targets, the leadership and elite responsible for the nation's objectionable activities. Although this does not entail regime change as the ultimate objective, regime change may in fact occur as a result. Because sanctions often enrich the elites,<sup>99</sup> the smart sanctions must aggressively restrict the financial assets and tools available to them. International cooperation to freeze all accounts of the elites and their family members is imperative. This puts pressure on these individuals and removes an instrument they might be able to use to subvert other aspects of the sanctions regime. Travel bans should be lifted for the common citizen and travel restricted strongly for the elites and their families.<sup>100</sup> This will preclude travel abroad by the elites to shop, to send their children to foreign schools, to receive medical treatment unavailable to the common citizen, to vacation, and to own retreats in other countries. Well-focused sanctions can serve to disenfranchise recalcitrant leadership, thereby disrupting their power base. The leaders' desire to remain in power will force some degree of compliance with the sanctions' objectives when the only other option is increased domestic destabilization that would come as a direct result of sanctions remaining fully in place.

Thus, a potentially successful smart sanctions regime for Iraq must have, as a minimum, the following characteristics: flexibility, humanitarian exemptions, restrictions specifically aimed at leaders and elites, streamlined exemption procedures, and mechanisms to assess compliance, effects, and recidivism. However, improvements to this economic instrument of power must also include a change to the way in which the sanctions are imposed. The humanitarian exemptions should distinguish between the people and the "obstinacy of its government,"<sup>101</sup> and divorcing the administration of humanitarian relief from the political objectives of a sanctions regime is essential to this end. Beyond the distinction between the people and the government, there should be a means to gauge and acknowledge compliance in order to relieve the strain on all concerned. The current sanctions regime functions as an indivisible whole: failure to comply with all aspects of the UNSCRs causes the sanctions regime to remain completely in place. So, the sanctions in Iraq "have turned into as much of a trap for the international community as for Iraq."<sup>102</sup> There has been no suspension or termination of the sanctions because of Iraqi failure to attain complete compliance. The smart sanctions regime must include the necessary mechanism for graduated response to incremental levels of

compliance. With these general changes applied to the specific case of Iraq, there is reasonable hope for success.

While the U.S. policy objectives for Iraq remain relevant and the smart sanctions regime sketched out above is applicable to Iraq, this cannot be a unilateral episode. The U.S. must work closely with the UN to make major changes to the UNSCRs currently in effect. U.S. motivation will matter to the other member nations whose continued cooperation in supporting an aggressive sanctions regime is crucial. The U.S. may have to forego its overt and very public pronouncements about its strong desire for the political demise of Saddam Hussein. In 1991 few anticipated that Saddam would last another decade while remaining largely contrary to UN demands.<sup>103</sup> The U.S. may have to pursue compliance with the modified UNSCRs as a separate policy goal. The collective membership of the UN must launch this new approach to sanctions on a united front. U.S. desire for regime change should not unhinge the politically delicate maneuvering that will have to take place to put the UNSCRs in place to execute smart sanctions.

The smart sanctions regime should overcome the major criticism the current sanctions regime has faced in the past decade. Fundamental changes made within the new sanctions regime will demonstrate that “it is vital that politics be kept apart from humanitarian assistance.”<sup>104</sup> The smart sanctions are designed to focus on the targets and to mitigate tremendously the bluntness associated with the previous sanctions regime by distinguishing between the people of Iraq and their rulers. The categorical exemption of items solely devoted to humanitarian causes and the case-by-case exemptions of other needed items are essential in this new sanctions regime. For example, an item exemption would be designed to allow importation of the supplies and machinery for the provision of clean drinking water, a capability that was provided to as few as 44% in rural areas and 77% in urban areas in the mid-90’s and down from the pre-war capacity of 95%.<sup>105</sup> Specific categorical exemptions for medications, vitamins, baby formula, and other food stuffs and carefully orchestrated distribution plans can raise the daily intake of calories and help to lower the infant mortality rate while also improving the lot of women, children and the elderly.

However, even with careful inspection and monitoring of the humanitarian materiel, outside agencies with UN charter can at best only confirm that these supplies are reaching the intended recipients. If the UN aggressively approaches the humanitarian relief aspects of the smart sanctions, it may be able to impose the consistent presence of outside agencies to ensure that the people receive their supplies. One way to do this is to make the presence of an outside agency the only means to receive the humanitarian relief. Saddam’s past record is

justification for imposing the presence of these outside agencies as a condition for receiving these supplies. Again, an information campaign is crucial to keep the people informed about the UN as the source of the food and Saddam as the source of the problem. Saddam has options and strategic choices as to how he will react to this focused set of sanctions, and his doomsday thinking, as demonstrated during the Gulf War, implies that he would rather have Baghdad annihilated than controlled by others.<sup>106</sup> To date, “sanctions have put constraints on Saddam but have not changed him or his objectives.”<sup>107</sup>

The U.S. policy aim of regime change is still very relevant because an unpredictable and bellicose Saddam continues to exacerbate the instability of the Middle East through his indeterminate WMD status<sup>108</sup> and his monstrous brutality within his own borders. However, the U.S. must approach this objective with caution; patience will be a virtue here. The current sanctions regime in place for more than a decade has not unseated Saddam despite onerous conditions directly attributable to him. The smart sanctions regime will be one of the tools used specifically to target him and his corps of ruling elite while improving the lot of the common Iraqi citizen. Regime change cannot occur acceptably when there is not “any opposition group in Iraq that has viability to overthrow Saddam Hussein.”<sup>109</sup> He has dealt so brutally with any political opposition, most notably having interrogated, tortured, and summarily executed 120 people implicated in a 1996 plot to overthrow him,<sup>110</sup> that the Iraqi regime is being preserved albeit a bit constrained.

It does not seem possible at present to bring about regime change with sanctions alone, regardless of the variant. However, a regime of smart sanctions executed carefully in concert with other aspects of policy and enforced strictly has strong potential to strengthen that segment of society that would give birth to a viable opposition. As it becomes clear to the Iraqi people as a result of an information campaign mounted by the U.S. or UN and as a result of loosened travel restrictions that the woes of the Iraqi people are attributable to their leader, this dissatisfaction should be the basis for the destabilization of conditions within Iraq’s borders.

The U.S. should not accelerate this process in any way until there exists a potential replacement for the current regime. Otherwise, Iraq could plunge into a quagmire of tribal dispute, and this is not necessarily better in a nation that possesses WMD. The U.S. will better meet both the general objective of regional stability and the specific one of regime change by taking a patient, uninvasive approach to the Iraqi government. The Iraqi Liberation Act can continue to fund a variety of activities quietly in anticipation of later conditions that might be right for a grassroots rebellion internal to Iraq. The George W. Bush administration has indicated that it wishes to re-energize the sanctions and has not advanced the same pointed rhetoric

characteristic of the Clinton administration.<sup>111</sup> This is the best approach when coupled with a fresh look at sanctions.

The question of the legality of a smart sanctions regime truly remains irreconcilable in any strict philosophical sense. However, a more pragmatic approach to the question causes one to set the question aside as an interesting one that should inform the way nations impose sanctions, but ultimately as a question that need not be completely reconciled. The notion of sanctions as a legitimate coercive tool cannot be reconciled with the notion that a nation ought to be free from such intervention and that international law would normally disallow such intervention and deem it to be an act of aggression.<sup>112</sup> In the strict sense, sanctions violate sovereignty, specifically when military force is used to enforce embargoes, territorial integrity, and shipping interdiction. Sanctions will consistently feel like acts of aggression to the target, who will not only decry these methods used against them but also against any other targets who share their sort of misery.<sup>113</sup> Clearly, sanctions do not intend the same degree of violence and destruction as military action directly intends it. So, sanctions are often seen as either something short of an act of war or as the very junior weapon with mild, slow-acting effects that are not directly intended, effects that can stop as soon as the target state complies.

Typically, the leadership of the target nation does not emphasize its own crimes, which were the impetus for imposing the sanctions in the first place, and the moral outrage of the target often pales in comparison with the reason for the international community's condemnation of the target nation. Motivation matters in the imposition of sanctions. It may be the major difference between an act of aggression and coercive diplomacy short of war. If the U.S. were imposing sanctions on a target solely to secure markets for itself or to affect financial conditions in a manner favorable to itself, the motivation would certainly not justify the imposition of sanctions. However, when the international community rises to an unprecedented level to condemn Iraqi behavior and uses sanctions to deter, express outrage, accomplish restitution, and exact retribution, the use of sanctions as an instrument seems less an act of aggression and more a reasonable response to Iraqi aggression. In a very pragmatic realm, the legalist criticism can be set aside in this case.

Predicting the efficacy of a smart sanctions regime is tenuous at best because one has not yet been put into effect. In the case under consideration here, movement toward achievement of the objectives sought by the U.S. is potentially improved by policy changes that address the problems found under the current sanctions regime. The policy ends suggested in the case of Iraq are a modification of current U.S. objectives, but the Secretary of State has been gesturing in that general direction. The containment of Iraq's bellicose behavior is of vital

importance, and the amelioration of the suffering of the Iraqi people is an important international objective. Both objectives are possibly within reach of U.S. policy when coupled with the UN mandate and nearly universal participation in enforcement .

## **CONCLUSION**

Given that the current sanctions regime is the most comprehensive and enduring ever imposed in UN history, there is little inductive evidence to go on from which to draw any kind of conclusion in the case of Iraq. The case of Iraq is *sui generis*. However, the design of a smart sanctions regime focused on the nature of the case of Iraq includes very specific adjustments that address the criticisms of sanctions regimes in general and the actual concerns of member nations in this case in particular. The resumption of a viable program to inspect WMD requires a relaxation of Saddam's desire to thwart their work. The key to gaining a modicum of support or at the least a cessation of Saddam's overt flouting of the team's mission lies perhaps in the de-emphasis of overt U.S. threats to his sovereignty coupled with the refined coercive force of a smart sanctions regime. His full cooperation and full disclosure of the entirety of Iraqi WMD maintenance, production and research would be an unrealistic expectation at the onset of the change to smart sanctions. However, clear and public disclosure of the carrot and stick strategy of the smart sanctions regime and the more powerfully focused effects of smart sanctions may bring about iterative successes in exchange for programmed concessions in the termination of sanctions. If there is a set of achievable ends in sight, internal pressures from a strengthened Iraqi population when coupled with external pressures from regional leaders just may succeed in providing the impetus for the behavioral changes that are the ultimate policy goals. None of these results is assured. Yet, based upon the analysis above, one can conclude that if any sanctions regime can work in the context of the Iraqi political landscape, then a regime of smart sanctions is the most likely candidate to provide a feasible, acceptable, and suitable solution.

Economic sanctions are a necessary facet of international political intercourse conducted under less than benign circumstances. In the case of Iraq, the result of more than a decade of comprehensive sanctions has been misery for the Iraqi people, continued power and control for Saddam, persistent regional instability, and discord in the international community among those who dislike the sanctions and those who glumly support them despite great cost. Clearly, the occurring results are not in line with the policy objectives sought, which is cause for alarm on all fronts whether humanitarian, political, regional, unilateral U.S. or multilateral UN. The only real recourse is a radical redesign of the sanctions imposed to focus and control their effects. Although there is no true inductive base for determining the probable effects of

conversion to a regime of smart sanctions, the proposed changes academically address the critical and evidential problems associated with the use of sanctions as an instrument of power. While a regime of smart sanctions alone is not the final answer in the case of Iraq, it is certainly a reasonable step in the evolution of a complex and forceful policy that includes sanctions instruments and as such is a reasonable choice for the next course of action in Iraq.

The analysis of the case of Iraq and of sanctions regimes imposed in general to date has produced several viable suggestions for the alteration of U.S. sanctions policy to make it more efficacious in the case of Iraq. However, the characteristics of the case involving U.S. policy toward Iraq are not unlike the general attributes of many of the more comprehensive sanctions regimes imposed on other nations since World War I. Thus, although this work has focused on the development and analysis of potential improvement to the sanctions regime specifically imposed on Iraq, many of these changes are generally applicable in any sanctions regime that would be imposed or would undergo conversion to a more effective smart sanctions regime.

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## ENDNOTES

<sup>1</sup> David Cortright and George A. Lopez, The Sanctions Decade: Assessing UN Strategies in the 1990s (Boulder: Lynne Rienner Publishers, Inc., 2000), ix, 1, and 14. Later referred to as TSD. The UN imposed sanctions six times more often in the last ten years than they had in the total of the previous forty-five years. Member nations imposed more than thirty sanctions episodes in last decade.

<sup>2</sup> There is strong debate among the sources I have used as to whether the U.S. policy toward Iraq has been successful and, if so, to what degree. The debate occurs in the application of the metrics used by the scholars and in some of the irreconcilable assumptions they make to determine the metrics.

<sup>3</sup> Woodrow Wilson as quoted by Vinod Anand, "Iraq Under Siege: Human Costs of Economic Warfare," Strategic Analysis: The Monthly Journal of the IDSA, Vol. XXIV No. 2, May 2000; available from [http://www.ciaonet.org/olj/sa/sa\\_may00anv01.html](http://www.ciaonet.org/olj/sa/sa_may00anv01.html); Internet; accessed 13 September 2001.

<sup>4</sup> Ernest H. Preeg, Feeling Good or Doing Good with Sanctions: Unilateral Economic Sanctions and the U.S. National Interest, Significant Issues Series of the Center for Strategic and International Studies (Washington, D.C.: CSIS Press, 1999), 4.

<sup>5</sup> Cortright and Lopez, TSD, 223.

<sup>6</sup> Preeg, 5.

<sup>7</sup> U.S. Department of State, Strategic Plan, September 2000 (Washington, D.C.: GPO, 2000), 67.

<sup>8</sup> U.S. Congress, Congressional Budget Office, A CBO Study: The Domestic Costs of Sanctions on Foreign Commerce, March 1999 (Washington, D.C.: GPO, 1999), 1. Later referred to as CBO.

<sup>9</sup> Eric D. K. Melby, "Iraq," in Economic Sanctions and American Diplomacy, Richard N. Haass, ed. (New York: Brookings Institution Press, 1998), 111. Far too numerous and wordy to try to summarize in the text of this paper, the series of UNSCRs pertinent to the case of Iraq is aptly summarized in Hull, Chapter 1. Each time I mention one of the UNSCRs for the sake of textual support, I mention the key elements of that resolution that apply to the context in which the citation appears.

<sup>10</sup> Melby, 110-117.

<sup>11</sup> Gary Clyde Hufbauer, Jeffrey J. Schott, and Kimberly Ann Elliott, Economic Sanctions Revisited: History and Current Policy, 2<sup>nd</sup> Edition (Washington, D.C.: Institute for International Economics, 1990), 38. These categories are not mutually exclusive, but they do appear to be exhaustive.

<sup>12</sup> Hufbauer, Schott, and Elliott, 36.

<sup>13</sup> Hufbauer, Schott, and Elliott, 10-12.

<sup>14</sup> Cortright and Lopez, TSD, 208.

<sup>15</sup> Cortright and Lopez, TSD, 21. The American Friends Services Committee has argued that sanctions may be morally justified when there is support for the sanctions within the targeted country. South Africa is a case in point. The majority population held down by its minority government via apartheid was in favor of a comprehensive sanctions regime designed to exert pressure on that minority to bring about a policy change. This case is often cited as one of the sanctions success stories.

<sup>16</sup> Cortright and Lopez, TSD, 2.

<sup>17</sup> Richard N. Haass, "Economic Sanctions: Too Much of a Bad Thing," Brookings Institute, June 1998; available from <http://www.ciaonet.org/pbei/bi/har01.html>; Internet; accessed 13 September 2001.

<sup>18</sup> Melby, 113.

<sup>19</sup> Gary Hufbauer and Barbara Oegg, "A Short Survey of Economic Sanctions," Institute for International Economics, Teaching with CIAO; available from <http://www.ciaonet.org/teach/cs/hug01.html>; Internet; accessed 13 September 2001. Their list of sanctions in CIAO teaching article shows this. Kimberly Elliott discusses it in "Factors Affecting the Success of Sanctions," in Economic Sanctions: Panacea or Peacebuilding in a Post-Cold War World? David Cortright and George A. Lopez, ed. (Boulder: Westview Press, 1995), 53. The CBO report shows this in the US-Iraq case analysis, 27-36.

<sup>20</sup> CBO, 43-45.

<sup>21</sup> Cortright and Lopez, TSD, 56. The best recent example to illustrate this point has been the Clinton administration's tenacity within the UNSC debates. The refusal to lift the sanctions, regardless of the level of compliance, until Saddam is removed flies in the face of the UN's intention to lift sanctions when the requirements have been met. The US has been accused of "moving the goal posts."

<sup>22</sup> Cortright and Lopez, TSD, 3-8.

<sup>23</sup> Richard N. Haass, ed., Economic Sanctions and American Diplomacy (New York: Brookings Institution Press, 1998), 201. Later referred to as ESAD.

<sup>24</sup> Haass, ESAD, 97.

<sup>25</sup> United Nations, General Assembly, Elimination of Coercive Economic Measures as a Means of Political and Economic Compulsion, 12 October 2000.

<sup>26</sup> Cortright and Lopez, TSD, 19.

<sup>27</sup> Johan Galtung, quoted in Cortright and Lopez, TSD, 19.

<sup>28</sup> Cortright and Lopez, TSD, 20.

<sup>29</sup> Cortright and Lopez, TSD, 20.

<sup>30</sup> This is a minor modification to a definition of success offered by Hufbauer, Schott, and Elliott, 41.

<sup>31</sup> Hufbauer, Schott, and Elliott, 92.

<sup>32</sup> Hufbauer, Schott, and Elliott, 93.

<sup>33</sup> Cortright and Lopez, TSD, 204-209.

<sup>34</sup> Hufbauer, Schott, and Elliott, 10.

<sup>35</sup> The following argument is my own product. After having written it, I encountered two other arguments, one by Joy Gordon and one by Drew Christiansen and Gerard F. Powers, that based themselves on ethical theory. My argument turns on the necessary and sufficient conditions for Jus ad Bellum and is rather pragmatic. I did not derive my answer from classical ethical theory. Rather, it rests on applied ethics. Any hardcore examination of this topic would have to start from a more fundamental position to derive its conclusion.

<sup>36</sup> Michael Walzer, Just and Unjust Wars: A Moral Argument with Historical Examples (Basic Books: USA, 1992). He fleshes out the *jus ad bellum* aspect of the theory in the first seven chapters.

<sup>37</sup> Hufbauer and Oegg. The comprehensive listing of sanctions included in the article shows the underlying reasons for the sanctions regimes imposed.

<sup>38</sup> Hufbauer, Schott, and Elliott, 43.

<sup>39</sup> South Africa is the notable exception to this general rule. In that case, the minority white government was the target. This sanctions episode was designed to coerce a policy change on behalf of the black majority. It was not a political situation that could have reasonably progressed toward war. That would have been completely inconsistent with the policy objectives.

<sup>40</sup> Cortright and Lopez, TSD, 205.

<sup>41</sup> Melby, 112 and 126. Of 159 member nations in the UN, 122 of them supported the UNSCRs directly or adopted measures in support. Notably absent from that group were Libya and Cuba.

<sup>42</sup> Cortright and Lopez, TSD, 26.

<sup>43</sup> Cortright and Lopez, TSD, 224.

<sup>44</sup> A variety of sources, all prepared in or around the transition and very current indicate strongly the need to retain the three major policy objectives toward Iraq. They are, by author or editor, Frank Carlucci, Robert Hunter and Zalmay Khalilzad; Jacquelyn K. Davis and Michael J. Sweeney; Stephen J. Flanagan, Ellen L. Frost and Richard Kuglar; Congressional Budget

Office; and U.S. Department of State. Congressional support for strengthening the U.S. posture remains strong.

<sup>45</sup> Alina L. Romanowski, "Prepared Testimony of Alina L. Romanowski Deputy Assistant Secretary of Defense for Near Eastern and South Asian Affairs," U.S. Policy Toward Iraq, before the U.S. Congress, House Committee on International Relations, 106<sup>th</sup> Cong., 2d sess., 23 March 2000, (1629 words) [data base on-line]; available from Lexis-Nexis, Reed Elsevier; accessed 27 September 2001.

<sup>46</sup> U.S. President, A National Security Strategy for a Global Age (Washington, D.C.: GPO, 2000), William J. Clinton, 2000, 59.

<sup>47</sup> Iraq Liberation Act of 1998, Public Law 105-338, 22 U.S. Code sec. 2151 (1998).

<sup>48</sup> Richard E. Hull, Imposing International Sanctions: Legal Aspects and Enforcement by the Military, March 1997; available from <http://www.ndu.edu/ndu/inss/books/sanctions.html>; Internet; accessed 13 and 14 September 2001.

<sup>49</sup> Richard N. Haass, ESAD, 205.

<sup>50</sup> Congress, Senate, Near Eastern and South Asian Affairs Subcommittee of the Senate Foreign Relations Committee, U.S. Policy Towards Iraq: Hearing before the U.S. Congress, Near Eastern and South Asian Affairs Subcommittee of the Senate Foreign Relations Committee, 107<sup>th</sup> Cong., 1<sup>st</sup> sess., 1 Mar 2001, (15447 words) [data base on-line]; available from Lexis-Nexis, Reed Elsevier; accessed 27 September 2001. Witnesses: Bob Kerrey and Senator Sam Brownback.

<sup>51</sup> Melby, 122-123. This judgment is also reinforced by Brownback in the previous note.

<sup>52</sup> Keith B. Payne, The Fallacies of Cold War Deterrence and a New Direction (Lexington, KY: University Press of Kentucky, 2001), 98.

<sup>53</sup> Congress, Senate, Near Eastern and South Asian Affairs Subcommittee of the Senate Foreign Relations Committee, U.S. Policy Towards Iraq: Hearing before the U.S. Congress, Near Eastern and South Asian Affairs Subcommittee of the Senate Foreign Relations Committee, 107<sup>th</sup> Cong., 1<sup>st</sup> sess., 1 March 2001, (15447 words) [data base on-line]; available from Lexis-Nexis, Reed Elsevier; accessed 27 September 2001. Witness: Anthony Cordesman.

<sup>54</sup> Richard Garfield, Morbidity and Mortality among Iraqi Children from 1990 through 1998: Assessing the Impact of the Gulf War and Economic Sanctions, Joan B. Kroc Institute for International Peace Studies, March 1999; available from [http://www.ciaonet.org/wps/gar01/gar01\\_fore.html](http://www.ciaonet.org/wps/gar01/gar01_fore.html); Internet; accessed 13 September 2001.

<sup>55</sup> United Nations, Report of the Secretary-General pursuant to paragraph 5 of resolution 1330 (2000), Security Council, 2 March 2001, 1 and 12-14.

<sup>56</sup> Haass, ESAD, 197-221, and Melby, 120.

<sup>57</sup> U.S. President, William J. Clinton, 1. Also reiterated verbally by George W. Bush with an increased emphasis on homeland security on multiple occasions, to include the 20 September 2001 speech after the terrorist attacks of 11 September 2001.

<sup>58</sup> U.S. President, William J. Clinton, 58.

<sup>59</sup> Hull. Chapter 1 includes an excellent discussion of many of the major UNSCRs, among them are 1302 (2000, oil-for-needs), 1284 (1999, return of Kuwaiti property, to include unaccounted for armaments), 986 (1995, oil-for-food and to defray UN expenses), and, as mentioned here, 687 (1991, established Kuwait-Iraq boundary; UN observers in demilitarized zone; elimination of Iraq's WMD; return of Kuwaiti property; compensation for victims; subject to review, lifting of embargo on foodstuffs; repatriation; renouncement of terrorism; formal ceasefire effective upon Iraqi acceptance of all conditions in this resolution) [denounced at first, but later accepted by Iraq]. UNSCR 687 superceded UNSCR 661 (1990), which immediately followed the invasion of Kuwait, and UNSCR 665 (1990), which authorized all appropriate means necessary to enforce UNSCR 661.

<sup>60</sup> There is considerable disagreement as to whether this has worked or not. Some scholars point at the ejection of the UN inspection teams as a failure. Some point to the refusal by Saddam's government to cooperate in good faith with these teams when they were inside Iraq as a failure. On the other hand, some point to Iraq's apparent failure to rearm itself after its war with Iran due to the sanctions as a success. Declaration of success or failure for these scholars hinges on their definition of success and which aspects of Saddam's military potential they add into the equation.

<sup>61</sup> Kerstin Vignard, ed. Disarmament Forum: The Middle East, Issue 2. 2001 (Geneva: United Nations Institute for Disarmament Research, 2001), 1.

<sup>62</sup> Patrick Clawson, "Policy Watch #518, Powell to the Middle East: Assessing the Key Elements of Iraq Policy," Washington Institute for Near East Policy, 20 February 2001; available from <http://www.ciaonet.org/pbei/winep/clp01.html>; Internet; accessed 13 September 2001.

<sup>63</sup> George A. Lopez, "Toward Smart Sanctions on Iraq," Joan B. Kroc Institute for International Peace Studies at the University of Notre Dame, April 2001, available from <http://www.ciaonet.org/pbei/kroc/log01.html>; Internet; accessed 13 September 2001.

<sup>64</sup> Lopez.

<sup>65</sup> Haass, ESAD, 201.

<sup>66</sup> Clawson.

<sup>67</sup> Lopez.

<sup>68</sup> Hufbauer, Schott, and Elliott, 51.

<sup>69</sup> For example, Senator Sam Brownback, Representative Ben Gilman, Representative Howard Berman, and Representative Christopher H. Smith.

<sup>70</sup> Clawson.

<sup>71</sup> Clawson.

<sup>72</sup> Jon B. Alterman, "The Gulf States and the American Umbrella," Middle East Review of International Affairs, Vol. 4 No. 4, December 2000; available from [http://www.ciaonet.org/olj/meria/meria00\\_alj01.html](http://www.ciaonet.org/olj/meria/meria00_alj01.html); Internet; accessed 8 November 2001.

<sup>73</sup> Alterman.

<sup>74</sup> United Nations, Security Council, see UNSCRs 687, 1210, 1281, 1284, 1302, and any of the dozen or so more that pertain to Iraq since the invasion of Kuwait. Hull's discussion of the UNSCRs is very succinct. Also see the base UNSCRs published by the UN.

<sup>75</sup> Cortright and Lopez, TSD, 43.

<sup>76</sup> Cortright and Lopez, TSD, 44.

<sup>77</sup> Adekeye Adebajo, "Saddam's Bazaar," The World Today March 1998; available from [http://www.ciaonet.org/olj/wt/wt\\_98adebajo.html](http://www.ciaonet.org/olj/wt/wt_98adebajo.html); Internet; accessed 8 November 2001.

<sup>78</sup> Cortright and Lopez, TSD, 44.

<sup>79</sup> Clawson paraphrasing Colin Powell.

<sup>80</sup> Cortright and Lopez, TSD, 43-44.

<sup>81</sup> Cortright and Lopez, TSD, 44.

<sup>82</sup> Cortright and Lopez, TSD, 44.

<sup>83</sup> Clawson.

<sup>84</sup> Lopez.

<sup>85</sup> Robert O. Freedman, "American Policy Toward Iraq and Iran in Clinton's Second Term," March 1999; available from <http://www.ciaonet.org/pbei/jcpa/fr01.html>; Internet; accessed 13 September 2001.

<sup>86</sup> Cortright and Lopez, TSD, 247.

<sup>87</sup> See Hull for a good description of the pertinent UNSCRs.

<sup>88</sup> Lopez.

<sup>89</sup> Cortright and Lopez, TSD, 247.

<sup>90</sup> Amatzia Baram, "Saddam Husayn Between His Power Base and the International

Community,” Middle East Review of International Affairs, Vol. 4 No. 4, December 2000; available from [http://www.ciaonet.org/olj/meria/meria00\\_baa01.html](http://www.ciaonet.org/olj/meria/meria00_baa01.html); Internet; accessed 8 November 2001.

<sup>91</sup> Clawson.

<sup>92</sup> Cortright and Lopez, TSD, 213.

<sup>93</sup> Cortright and Lopez, TSD, 213.

<sup>94</sup> Cortright and Lopez, TSD, 247-249. This is a general improvement suggested by Cortright and Lopez. I have applied it to the case of Iraq.

<sup>95</sup> Adebajo. By August 31 1997, out of a total of 786 exemptions applied for, only 67 were approved, while 83 were on hold, 20 blocked, and 11 pending. Ambulances, tires and batteries were among the items requested.

<sup>96</sup> Cortright and Lopez, TSD, 227-228.

<sup>97</sup> Melby in Haass, ESAD, 114.

<sup>98</sup> Melby in Haass, 114.

<sup>99</sup> Cortright and Lopez, TSD, 20. Also see Hufbauer and Oegg.

<sup>100</sup> Cortright and Lopez, TSD, 210.

<sup>101</sup> Baram.

<sup>102</sup> Alterman.

<sup>103</sup> Alterman.

<sup>104</sup> Denis Halliday quoted in Adebajo.

<sup>105</sup> Garfield.

<sup>106</sup> Baram.

<sup>107</sup> Melby in Haass, 123.

<sup>108</sup> Michael Eisenstadt, “Policy Watch #515, Iraq’s Weapons of Mass Destruction: An Emerging Challenge for the Bush Administration,” 29 January 2001; available from <http://www.ciaonet.org/pbei/winep/eim02.html>; Internet; accessed 8 November 2001.

<sup>109</sup> General Anthony Zinni, as quoted by Vinod Anand, “Iraq Under Siege: Human Costs of Economic Warfare,” in Strategic Analysis: The Monthly Journal of the IDSA, Vol. XXIV No. 2. May 2000; available from [http://www.ciaonet.org/olj/sa/sa\\_may00anv01.html](http://www.ciaonet.org/olj/sa/sa_may00anv01.html); Internet; accessed 13 September 2001.

<sup>110</sup> Alterman.

<sup>111</sup> Alterman.

<sup>112</sup> Ingrid Detter De Lupis, The Law of War, LSE Monographs in International Studies (Cambridge: Cambridge University Press, 1987), 60-62.

<sup>113</sup> For example, see United Nations, General Assembly, Report of the Secretary General: Necessity of Ending the Economic, Commercial, and Financial Embargo Imposed by the United States of America Against Cuba. 24 June 2000.

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