# MAINTENANCE OF SANCTIONS REGIMES: LESSONS FROM IRAQ

*Nathan Lysons*
*Norman Paterson School of International Affairs, Carleton University*

Following the Cold War, the United Nations Security Council has used sanctions as a regular tool for influencing states and maintaining international peace and stability. The literature surrounding the use and effectiveness of sanctions has grown accordingly, but more attention is needed in determining how to create and maintain effective sanctions regimes. Using Iraq as a case study, a number of policy recommendations can made. This article will argue that in order to address problems of capacity, developed countries should assist in systematically building capacity in countries lacking required enforcement mechanisms, while countries with adequate resources should take measures to ensure effective self-monitoring. To reduce the non-enforcement of sanctions regimes arising from these collateral economic losses, the SC could step up recognition of the negative consequences on affected countries and intensify efforts to provide compensation. The use of targeted sanctions, with defined, but renewable time frames will reduce humanitarian costs, allow greater proportionality, and thus increase the legitimacy of sanctions regimes. In the future, the Security Council should act to shift state interests through both positive inducements and secondary sanctions in order to build and maintain effective sanctions regimes.

## INTRODUCTION

With the end of the Cold War, the United Nations Security Council (SC) was freed from ideological bonds and began to use sanctions as a regular tool of coercion. Supporters of sanctions argue that they are justified as a tool which is less costly than war, but more forceful than rhetoric.[1] As sanctions have become more common, the scholarship regarding their use, effectiveness, and nuances has also grown.[2] While the sanctions literature to date has provided valuable insights regarding the effectiveness of sanctions in obtaining compliance, there has been less research focused on finding best practices to create and maintain effective sanctions regimes. This article uses the sanctions regime authorized by the SC against Iraq as a case study to examine different methods that can be used to make sanctions regimes more effective. The article will begin by briefly highlighting areas that potentially undermine sanctions regimes, and will then look at those issues in the context of Iraq in order to explore factors that contribute to sanction busting. From this analysis, this article will propose a number of prescriptions for enhancing compliance with sanctions regimes. The need for states to find more effective ways to maintain sanctions regimes is real, as threats to international peace and security and corresponding UN sanctions are not abating.[3]

## POTENTIAL WEAKNESSES IN SANCTIONS REGIMES

In the context of restoring or maintaining international peace and security, Article 41 of the Charter of the United Nations gives the SC the authority to employ sanctions as a coercive tool. The SC, however, does

have some freedom of interpretation when determining what constitutes a threat to international peace and security. Thus, the SC has applied sanctions regimes in response to a variety of egregious international ills. The following examples are representative of situations that have motivated the SC to establish sanctions regimes. In 1977, the SC passed Security Council Resolution (SCR) 418, which implemented a mandatory arms embargo against South Africa, largely in response to apartheid and its associated humanitarian consequences. Iraq's invasion and attempted annexation of Kuwait in 1990 led to the comprehensive sanctions regime established by SCR 661 against Iraq. The 1994 genocide in Rwanda resulted in SCR 918, which established an arms embargo, among other measures, against that country. Travel and financial sanctions against Afghanistan in 1998, established by SCR 1267, were motivated by the threat of international terrorism. Other sanctions regimes have been established to combat nuclear proliferation, such as SCR 1718 (2006), which targeted North Korea, and those sanctions that have been levied against Iran through SCR 1737 (2006) and SCR 1747 (2007).

As long as the SC is acting within its authority under Chapter VII, the Charter of the United Nations requires that all UN members implement SCRs (Charter of the United Nations, Art. 48). For the most part, scholars tend to assume that states will attempt to fulfill their obligations under international law in good faith.[4] At the same time, David Cortright and George Lopez, two of the foremost experts on the use of sanctions, note that UN sanctions require state compliance for effectiveness; the UN by itself does not have the institutional capacity to enforce sanctions, although, they argue, it could play a more effective role in coordinating and monitoring sanctions regimes than it currently does (Cortright and Lopez 2005). For these reasons, many of the suggestions which seek to enhance enforcement look to build state capacity for domestic UN sanctions enforcement. Proposed capacity building methods include passing domestic legislation to comply with UN sanctions, and building domestic legal, judicial, policing, and monitoring capacity (Biersteker et al. 2005). As well, in recognizing the impact that sanctions have on non-target states, another proposal is to resolve economic concerns of indirectly impacted states in order to ensure stronger compliance. This approach stems from Article 50 of the UN Charter which gives affected non-target states the "right to consult the Security Council with regard to a solution for those problems." If the SC resolves the economic concerns of the third party states, it is argued, the sanctions regime will be strengthened (Al-Khasawneh 2001, 333).

Beyond strengthening domestic capacity to implement sanctions, the literature also suggests that sanctions which are perceived to be legitimate, addressing real concerns with objective clarity and attainability, will enjoy greater international support (Chinkin 2001, 383). Coupled with this argument is the issue of the humanitarian consequences of sanctions. Sanctions that have egregious humanitarian costs quickly lose international support (Cortright and Lopez 2002, 32). Although it remains a controversial issue, there are a number of authors who argue that the SC is bound by humanitarian and human rights law, and

thus sanctions that have severe humanitarian consequences, or that infringe on customary international human rights, are unlawful. These authors Cortright and Lopez (2002) also point out that states implementing sanctions are often bound by treaty-based human rights regimes, such as the International Covenant on Economic, Social, and Cultural Rights, which arguably preclude adherence to this type of sanction.[5]

Intertwined with issues of legitimacy and human rights is the concept of sanctions fatigue. Over time sanctions, especially those that do not have a perceived end date, tend to lose objective clarity, legitimacy, and force. This is especially true when humanitarian concerns rise, the target adjusts, implementation costs grow higher, and the initial catalyst for the sanction fades in memory (Haass 1998, 205). To prevent sanctions fatigue from occurring, Richard Haass suggests that sanctions should be rapidly implemented and have a strong purpose (Haass 1998, 208).

Despite the recognition that sanction enforcement relies on the "goodwill of (the majority of) States Parties," (Den Dekker 2001, 111) and the many suggestions of positive reinforcement (capacity building, economic assistance for affected states, etc.), academic scholarship has not yet fully grappled with the fact that the political interests of UN members may conflict with SC obligations, and thus compromise sanction regimes. While it is clear that all UN members are bound to implement SC resolutions, it has been noted that, in practice, the enforcement of sanctions regimes has varied according to national interests and political will (Hull 1997). Political differences among SC members can also negatively impact sanctions regimes even after the implementation of sanctions (Cortright and Lopez, 2002). In light of this, it seems evident that both 'carrots' and 'sticks' should be used to ensure that UN sanctions are enforced effectively.

## THE SANCTIONS REGIME AGAINST IRAQ

The SC introduced comprehensive sanctions against Iraq on 6 August, 1990 with SCR 661 in response to Iraq's takeover of Kuwait.[6] SCR 670 further tightened these sanctions on 25 September, 1990 by imposing aviation and maritime restrictions to close loopholes in the regime. Following the First Gulf War, the SC passed SCR 687 on 3 April 1991, which established the cease-fire and also set up eight conditions to be met before sanctions would be lifted. In response to growing humanitarian concerns, the SC passed SCR 706 on 15 August 1991, which authorized the Oil-for-Food program, allowing the sale of up to $1.6 billion of Iraqi oil over a six-month period, with the money going to a UN escrow account to finance humanitarian imports and war reparations. On 14 April 1995, the SC passed SCR 986 and created a new formula for the Oil-for-Food program that increased the amount of oil that could be sold to $1 billion every three months. This resolution also shifted the responsibility for distributing humanitarian goods to the Iraqi government. Then, on 20 February 1998, the SC passed SCR 1153, which increased the amount of oil that could be sold to $5.25 billion every six months. This resolution also allowed the oil revenues to finance critical development needs.

SCR 1284, on 17 December 1999, established a new UN Monitoring, Verification, and Inspection Commission (UNMOVIC) to replace the UN Special Commission on Weapons (UNSCOM established by SCR 687). It also removed the cap on oil sales and offered to suspend sanctions for renewable 120-day periods if Iraq cooperated with UNMOVIC and IAEA. Later, in response to humanitarian concerns, the SC established a panel of experts to report on Iraq's humanitarian situation by passing SCR 1302 on 8 June, 2000. Passed on 1 June, 2001, SCR 1352 stated the SC intention to consider arrangements to facilitate civilian trade. The SC used SCR 1409, on 14 May, 2002, to introduce a new procedure to speed up imports. Finally, following the Second Gulf War, on 22 May, 2003, the SC lifted all non-military sanctions by passing SCR 1483. SCR 1483 also formally recognized Britain and the United States as occupying powers.

## WEAKNESSES IN THE SANCTIONS REGIME

During the sanctions period there were major leaks in the sanctions regime. One of the main seepage points was Jordan, through which Iraqi exports were smuggled out and "strategic goods" were secretly imported (Naylor 1999, 323). When pressure from the United States forced Jordan to crack down on this illicit trade it was only driven further underground, but the Jordanian government was unable or unwilling to significantly disrupt the flow of smuggled goods (Ibid.). Furthermore, Jordan stopped monitoring Iraqi-bound cargo at the port of Aqba in October 2000 (Cortright and Lopez 2002, 34). The lack of domestic capacity for sanction enforcement was an even more obvious issue in Lebanon. The central government was unable to control a number of ports within Lebanon and these militia-operated ports became major shipping points through which goods were smuggled in and out of Iraq. Even when official government control was established in those ports, sanction-busting continued (Naylor 1999, 323).

The Duelfer report estimates that between 1990 and 2003, Iraq was able to generate USD$10.9 billion in hard currency through illicit means (Duelfer 2004). One commentator asserted that "everyone from the French to the Syrians has quite publicly violated the sanctions in some way" (Friedman 2000). The United States, the greatest proponent of the sanctions, has also been accused of being the largest violator, contributing fifty-two percent of the total kickbacks to the Iraqi government during the sanctions regime (Borger and Wilson 2005). This demonstrates that UN members need to build their capacity in material terms in some instances, such as in the case of Lebanon, and to create more effective monitoring and enforcement methods in other instances, such as in the American case, to ensure compliance with sanctions regimes.

Before the Gulf War, Iraq was a major economy in the Middle East, and many of its neighbors had economic motivations to oppose sanctions. Not surprisingly, a substantial number of nations sought consultation with the SC under Article 50 of the UN Charter. This appeal, the first instance of a broad invocation of Article 50 for economic relief, involved a total of twenty-three countries (Al-Khasawneh 2001,

326). Article 50, however, only gives a right to consultation, not a right to compensation for economic losses. In response to the appeals, the sanctions committee, which was formed by SCR 661 to monitor the sanctions against Iraq, called for international aid in order to lessen the impact on affected third party states (Al-Khasawneh 2001, 329). To shore up support for the sanctions, some aid was given to front-line states. Under an Economic Action Plan proposed by the United States, highly-affected front-line countries, namely Egypt, Jordan, and Syria, were provided USD$20 billion in aid, and Egypt also had USD$7.1 billion of its debt forgiven by the United States (Melby 1998, 115). As well, the SC granted an exemption allowing Jordan to continue importing a small amount of oil from Iraq (Al-Khasawneh 2001, 331). However, these efforts did not fully offset the economic losses felt by these states. The International Monetary Fund estimated that Jordan lost around fifty-five percent of its GNP as a result of the embargo on Iraq and Kuwait (Melby 1998, 114). Turkey's pre-embargo export trade with Iraq was estimated at USD$8 billion, and Iraq also owed Turkey USD$800 million, payment of which was suspended when the embargo began (Melby 1998, 114). Egypt estimated its annual losses from the sanctions situation to be USD$9 billion annually from a decline in tourism, Suez Canal transit fees, worker remittances from Kuwait and Iraq, and the loss of bank deposits in Iraq and Kuwait (Melby 1998, 114). Yemen was also affected by the sanctions regime because its support for Iraq resulted in lost remittances and aid from Saudi Arabia (Melby 1998, 114). Finally, prior to the embargo, forty percent of Lebanon's exports went to Iraq, and worker remittances were estimated at over USD$150 million (Melby 1998, 114). Thus, despite the aid that was given and the appeals by the Sanctions Committee, the affected states did not receive full compensation for their losses. In fact, on 25 March 1991, a group of twenty-one countries, including Jordan, Lebanon, and Yemen, sent a joint letter to the President of the SC appealing for greater compensation (Security Council document S/22382 in Al-Khasawneh 2001, 330). Even though the SC provided some compensation to affected third-party states for their losses, which it was not necessarily obligated to do, the extent of the economic impact was such that it is not entirely surprising that a number of these countries continued to trade illicitly with Iraq during the sanctions regime.

Initially, sanctions against Iraq had great legitimacy. Boutros Boutros-Ghali, the UN Secretary General during the initial phases of the sanctions regime, noted that it was the first time since the founding of the UN that one member state had attempted to annex another, and that no other crisis in the UN's history had "elicited such attention and action from the Security Council in such a compressed span of time" (Niblock 2001, 97). The goals of SCR 660 and SCR 661 were to force a return to the status quo; Iraq was to withdraw its military forces back to prewar positions and the legitimate Kuwaiti government was to return to authority. These objectives were clearly defined and directed towards remedying a stark violation of international law.

The objective clarity of these resolutions began to erode with SCR 678, which authorized states acting in cooperation with the government of Kuwait to use all means necessary to implement SCR 660 and

subsequent related resolutions, and "to restore international peace and security in the area." While the objectives of SCR 660 and 661 were met in March 1991, the SC passed SCR 687 soon after, which maintained the sanctions regime. SCR 687's objectives included the creation of a Middle East nuclear weapons-free zone, and stated that international peace and stability in the area, as required by SCR 678, had not been restored. The creation of a Middle East nuclear weapons-free zone and the goal of attaining regional peace and stability are regional management issues that could not be solved by sanctioning Iraq alone. Furthermore, Iraq's obligations under SCR 687, such as the requirement that "Iraq undertakes not to use, develop, construct, or acquire" weapons of mass destruction (WMD) in Paragraph 10, introduced even greater ambiguity. This requirement presented potential problems regarding the subjective opinions of a permanent monitoring body. Fears that the monitoring body would be politicized and that the sanctions regime would become permanent further undermined their legitimacy. The goals of the sanctions have been labeled as "new and vague, indeed unattainable, objectives" (Al-Anbari 2001, 374). The Iraqi government attacked the legitimacy of the sanctions on the grounds that Iraq's sovereignty was being violated through the imposed settlement of the border dispute with Kuwait, and the denial of Iraq's "lawful right to acquire weapons ... for defense" (United Nations, Letter from the Minister of Foreign Affairs of Iraq to the President of the Security Council 1991, cited in Niblock 2001, 103). Iraq's attacks on the legitimacy of the sanctions continued throughout the sanctions period. By 1998, international support for the sanctions had weakened to the point that French Foreign Minister Hubert Védrine called them "cruel, ineffective and dangerous" (Global Policy Forum 2002, Ch.3). The argument that compliance by implementing states will weaken if sanctions are not perceived to be legitimate and fair, especially if the sanction duration is considered to be excessive, seems to be supported by the experience of the sanctions regime against Iraq (Chinkin 2001, 383).

Egregious humanitarian conditions caused by sanctions are another factor that can undermine sanctions regimes. Rather than being targeted in nature, the initial sanctions against Iraq were comprehensive, cutting economic activity to all citizens of the country, despite the fact that SCR 661 did allow "payments exclusively for strictly medical or humanitarian purposes, and, in humanitarian circumstances, foodstuffs." In practice, it was up to the Sanctions Committee to determine what constituted humanitarian circumstances and purposes, and this approach did not prevent the Iraqi people's decline to extreme misery and despair (Burci 2001, 146-147). The SC was aware of the growing humanitarian crisis and included in SCR 687, Paragraph 20, a clause that once again allowed food and other goods that were required to meet civilian needs to be traded without limitation. The Sanctions Committee, however, still had to give its approval to transactions involving "material and supplies essential for civilian needs" under a streamlined process. Humanitarian concerns were also evident in SCR 688, which expressed explicit concern for the plight of the Kurdish population, but also included general appeals for humanitarian aid and concern for the human rights of all Iraqis in Paragraphs 2, 5, and 6. Despite this, the appeals were not met, cooperation between Iraq and

the UN agencies was tenuous, and Iraq was still under an oil embargo. The end result was a situation where humanitarian problems were not being addressed by external actors and the Iraqi government was unable to use its oil resources to alleviate its population's suffering (Niblock 2001, 47).[7]

The SC, taking note of the continuing humanitarian crisis, adjusted the sanctions regime once again. The much maligned Oil-for-Food program that was part of SCR 706 in 1991, addressed these growing concerns. Paragraphs 1 through 4 authorized Iraq to export up to USD$1.6 billion in oil over six months, with the revenues going into a UN escrow account in order to finance war reparation, UN disarmament and monitoring operations, and humanitarian programs. The Iraqi government's resistance to SCR 706, 712, and other resolutions, however, prevented the implementation of the Oil-for-Food program (and shifted some of the responsibility for the humanitarian crisis to the Iraqi government) until 1996. In 1996, the adjusted program under SCR 986, which authorized the sale of USD$1 billion every three months, was finally allowed to begin (United Nations Operation of the Iraq Program, n.d.). The Oil-for-Food resolutions, in response to ever increasing opposition to the sanctions over humanitarian concerns, increasingly relaxed the cap on the sales and purpose of the revenue until SCR 1284 (1999), Paragraph 15, authorized oil sales without a cap, and SCR 1352 (2001), Paragraph 2, expressed intent to explore new methods of civilian trade with Iraq. Despite this movement on the part of the SC, Kofi Annan, the Secretary-General of the United Nations, noted in 2000 that:

> The United Nations has always been on the side of the vulnerable and the weak, and has always sought to relieve suffering, yet here we are accused of causing suffering to an entire population. We are in danger of losing the argument, or the propaganda war … about who is responsible for this situation in Iraq - President Saddam Hussein or the United Nations (United Nations Press Release 2000).

International concerns over the situation of the Iraqi people did have an impact on the sanctions regime. On 10 March 2003, an updated issue brief for the United States Congress was circulated. The brief linked America's difficulty in maintaining international support for the sanctions to international humanitarian concerns, and suggested targeted sanctions (to narrow the impact) as a way of stopping "sanctions erosion" (Katzman 2003). The resignation of UN humanitarian directors Denis Halliday, UN coordinator for Iraq in September 1998, and Hans Von Sponeck, director of the Oil-for-Food program in March 2000, in protest of the conditions in Iraq fueled anti-sanctions protests and campaigns in many countries, including Canada, France, the United States, Britain, and various Arab states (Cortright and Lopez 2002, 32). By the end of 2000, some protest groups, such as Voices in the Wilderness, shifted from demonstrating against sanctions to delivering unauthorized aid. A significant number of flights carrying relief supplies and businessmen landed in Baghdad in open defiance of the sanctions during the second half of 2000 (Cortright and Lopez 2002, 32).

Support for sanctions regimes is also contingent on state interests. As relations in the Middle East shifted, so did states' support for the sanctions regime. Problems with state enforcement due to lack of

capacity has been previously discussed, but a number of states have been implicated as either purposefully ignoring sanctions-busters or even profiting from these violations. For example, there are reports that Turkey was actually regulating and taxing illicit importation of Iraqi oil worth USD$400 million annually (Katzman 2003, 12). In a move that undermined the spirit, if not the direct letter of the sanctions, Syria and Iraq signed a free trade agreement in 2001.[8] The Iranian government was accused, by the Commander of the United States Fifth Fleet Vice Admiral Thomas B. Fargo, of being directly involved in sanctions violations in 1997 (*New York Times* February 12, 1997). Despite American laws that require sanctions against countries that violate UN sanctions, Jordan a "key ally in the region," continued to receive American aid, and U.S. sanctions were also waived against Turkey (Katzman 2003, 12).

Political divisions within the SC also had a negative impact on the sanctions regime. The United States and Britain were ardent supporters of the regime, but as the duration of sanctions increased, so did opposition from Russia, China, and France. In particular, Russian proposals to ease and eventually lift the sanctions were in opposition to British and American plans, and this division hampered the capacity of the SC to act in a timely and effective fashion (Cortright and Lopez 2002, 40-41). Moreover, it was suggested that Russia was motivated by significant economic and national interests in exploiting Iraqi oil fields (Friedman 2000). Similar accusations have been made against the United States government for its initial "tacit approval" of violations by American businesses (Borger and Wilson 2005). The politicization of the SC in this manner undermines both the legitimacy of UN sanctions and the SC itself.

## LESSONS FROM IRAQ

Policy makers looking to maintain effective sanctions regimes can draw important lessons from the Iraq experience. Domestic capacity does matter in enforcement. In some cases, actual capabilities to comply need to be heightened. At least some of the illicit trade that went through Lebanon and Jordan could have been prevented with stronger domestic capabilities in those countries. However, other instances of sanctions-busting in Iraq, such as those involving American businesses, cannot be explained in terms of material incapacity. For effective sanctions regimes, uniform implementation willingness and capacity is required, as even a small number of sanction-busters can undermine the whole regime (Biersteker et al. 2005, 62). To remedy problems of capability, participating states lacking implementation capacity (legal, judicial, administrative, etc.) need to be identified early in the sanctions regime and should be offered assistance to undertake sustained capacity building initiatives in order to create the necessary implementation mechanisms (Biersteker et al. 2005, 63). These efforts could take the form of financial assistance, but also require the transfer of technical knowledge and technology in a more systematic and sustained fashion. These states may also require enabling legislation, such as the criminalization of sanctions-busting, to harmonize international legal obligations and domestic law (Ward 2005, 169).

Some countries – such as the United States – still experienced sanctions violations despite the presence of a strong resource capability and the will to pursue compliance with the regimes. In these instances, more effective national monitoring bodies need to be created. Enhanced cooperation across different branches of government and better dissemination of the requirements of sanctions to affected private actors is required (Biersteker et al. 2005, 59). In this manner, the situation with the American company Bayoil, which reportedly had tacit approval for its actions from the U.S. State Department yet was still charged with sanctions violations at a later date, could be avoided (Borger and Wilson 2005).

The Iraq experience also demonstrated the importance of addressing the economic needs of affected non-target states. Many of the key smuggling routes involved countries that had previously enjoyed strong economic relationships with Iraq, in particular Jordan, Turkey, and Lebanon. Although causation has not been definitively proven, these routes strongly suggest that smuggling was a way for the most affected states to alleviate the economic hardship caused by the sanctions regime. Defections from sanctions regimes over an issue like this could be combated by creating a system of compensation for affected non-target states (Hull 1997). Proposals for a permanent trust fund to compensate states inadvertently injured by UN sanctions have been controversial, however, with developed states expressing concern over funding and fund disbursement (Hull 1997). An acceptable halfway step may be to create an objective body charged with determining which states have been affected and to what degree by the implementation of sanctions, without making binding compensation requirements.

Concerns over the legitimacy of the sanctions against Iraq increased with the length of time the sanctions remained in existence, and the duration of the sanctions reinforced the perception that the sanctions regime was politicized. The perception, following the First Gulf War, that sanctions were no longer just (and therefore illegitimate) reinforced international humanitarian concern over the fate of the Iraqi people. According to many critical observers, the comprehensive sanctions were punishing the wrong people - the Iraqi civilians (Niblock 2001, 194). These issues fueled anti-sanction campaigns, contributed to sanctions-busting at the private level, and ultimately undermined support and effective enforcement at the state level (Cortright and Lopez 2002, 32). To maintain the legitimacy of a sanctions regime, implementing actors need to ensure that it does not violate other principles of international law (human rights law, for example), and also that it is proportional, targeted, and can be periodically assessed (Clapham 2001, 135). Many of these requirements have indeed been written into SCRs. The era of comprehensive economic sanctions seems to have passed, as witnessed by recent targeted sanctions against the Sudan by SCR 1591 (2005), North Korea by SCR 1718 (2006), and Iran by SCR 1747 (2007). Targeted sanctions potentially solve a number of legitimacy issues, such as harmonization with principles of international law and proportionality. Although targeted sanctions do not have the same degree of impact as comprehensive sanctions, they can be effective. North Korea's strong reactions to SCR 1718, which banned the trade of luxury goods to North Korea as well

as items that could contribute to its weapons of mass destruction programs, and American financial sanctions against North Korea, which undercut North Korea's ability to illicitly gain hard currency, aptly demonstrate this (Porteus 2007). Because the sanctions effectively constrained Kim Jong-Il's ability to reward and thus maintain loyalty among elite level North Korean leadership, it is not surprising that North Korea speedily returned to the Six-Party Talks. Nonetheless the SC should, before imposing sanctions, ensure consensus on the type of sanctions to be imposed, assess proportionality and possible unintended consequences, streamline the process for humanitarian exemptions, and create mechanisms for reviewing and lifting sanctions, either through sunset clauses or "negative veto" clauses.

State interests, despite the lack of discussion in the literature, did have a major impact on the Iraqi sanctions regime. Enforcement by Iran, Turkey, and other nations was at times suspect due to these countries' national interests, while political divisions among the permanent five on the SC also contributed to the erosion of sanctions. One way to minimize the undermining effect of shifts in political support for sanctions would be to ensure that there is widespread initial support for the sanctions, and then allow periodic review of the regime to account for shifts. To solve the problem of maintaining sanctions in the face of differing political interests, positive inducements, such as economic aid as allowed for under Article 50 of the UN Charter, could be offered and sanctions violators could be punished. This did not happen in the case of Iraq, although in 2001, SCR 1343 did impose sanctions against Liberia for violating sanctions, creating a precedent for such action (Cortright and Lopez 2002, 203). For effective enforcement of sanctions regimes it therefore seems prudent to have both positive and negative tools for shifting state interests.

## CONCLUSION

Policy makers seeking more effective ways to maintain current sanctions regimes, such as those in effect at the time of writing against North Korea, Iran, Liberia, the Sudan, etc., can learn much from Iraq. To address problems of capacity, developed countries should assist to systematically build capacity in those countries which lack required enforcement mechanisms, while countries with adequate resources should take measures to ensure effective self-monitoring. To reduce non-enforcement of sanctions regimes that arises from collateral economic losses, the SC must recognize the negative impact on affected countries and intensify efforts to provide compensation. The use of targeted sanctions with defined but renewable time frames should reduce humanitarian consequences, allow greater proportionality, and increase the legitimacy of future sanctions regimes. In the future, efforts should be made to shift state interests through positive inducements to build and maintain effective sanctions regimes, but the use of secondary sanctions should not be ruled out as a possibility for ensuring compliance with the regime.

## NOTES

[1] This viewpoint has been challenged. Some scholars argue that sanctions have more harmful effects on civilian populations than military action. For an example of this argument, see Al-Anbari 2001.
[2] Notable works in this literature include David Cortright and George A. Lopez's 2002 work *Sanctions and the Search for Security: Challenges to UN Action*; Richard N. Haass' 1998 volume *Economic Sanctions and American Diplomacy*; Peter Wallensteen and Carina Staibano's 2005 volume *International Sanctions: Between Words and Wars in the Global System*; and Tim Niblock's 2001 study of sanctions in the Middle East, *"Pariah States" and Sanctions in the Middle East: Iraq, Libya, Sudan.*
[3] Proof that UN sanctions are not abating is found in the fact that, according to the United Nations Sanctions Committee website (United Nations Security Council, n.d.) in June 2007, there were twelve sanctions regimes in existence and being monitored by sanctions committees. Furthermore, eight of the sanctions committees were established since 2003.
[4] Most mainstream international law literature assumes that international law constrains state actions, either by providing the "rules of the game" (in a liberal paradigm), or in a norm building iterative process shaping both law and state interests (in a constructivist paradigm). There are, however some who argue that international law does not constrain state actions (Goldsmith and Posner 2005).
[5] There are numerous examples of observers who take up this argument in its various forms, for a brief introduction, see Andrew Clapham 2001; Marcos Sassòli 2001; and Iain Cameron 2005.
[6] The SCRs listed in this section are some of the more noteworthy resolutions, but the list is not exhaustive. A more complete list of sanctions against Iraq can be found at the website UN Security Council Sanctions Relating to Iraq http://www.casi.org.uk/info/scriraq.html.
[7] However, it should also be noted that the Iraqi government would not have necessarily used oil resources to alleviate civilian suffering. Observers accused the Iraqi government of misusing resources gained from the Oil-for-Food program for personal gain and propaganda against the United States and the sanctions regime (Norton-Taylor 1999, and U.S. Department of State 1999).
[8] To get around the accusations of violating the sanctions regime, Syria claimed that trade would only be in permitted goods (Arabic News.com February 2, 2001).

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