61. Trade Sanctions

Congress should

- require that any new trade sanctions be justified by national security,
- repeal existing sanctions that fail to meet the national security criterion,
- set a time limit on any new trade sanctions,
- require the president to consult with Congress following the imposition of sanctions by executive order,
- give the president authority to waive any sanction in the national interest,
- require an analysis of the cost to the U.S. economy of all current and proposed trade sanctions, and
- provide compensation to U.S. citizens whose investments are lost or substantially devalued as a result of U.S. sanctions policy.

Using trade as a weapon of foreign policy has harmed America's economic interests in the world without significantly advancing national security. The proliferation of trade sanctions in the 1990s was accompanied by their declining effectiveness. From Cuba to Iran to Burma, sanctions have failed to achieve the goal of changing the behavior or the nature of target regimes. Sanctions have, however, deprived American companies of international business opportunities, punished domestic consumers, and hurt the poor and most vulnerable in the target countries.

Cataloging U.S. sanctions is no easy task (Table 61.1): no single agency or department is responsible for their administration, and no national sanctions database exists. The International Trade Commission has counted at least 100 unilateral economic sanctions that are currently in force. Many of those sanctions are relatively new. According to the president's Export Council, the United States has imposed more than 40 trade sanctions against

Table 61.1
Selected U.S. Unilateral Sanctions

Countries Subject to Total or Near-Total Embargo	Countries on State-Sponsored-Terrorism List—Restrictions on Financial Transactions	Countries on Drug Decertification List[a]
Burma	Cuba	Afghanistan
Cuba	Iran	Burma
Iran	Iraq	
Iraq	Libya	
Libya	North Korea	
North Korea	Sudan	
Sudan	Syria	
Yugoslavia		

SOURCES: U.S. Treasury Department; U.S. Department of State; and White House Office of Drug Control Poilicy.
[a]Cambodia, Haiti, Nigeria, and Paraguay are also on the drug decertification list but currently have "vital interests" waivers.

about three dozen foreign countries since 1993. The council estimates that those sanctions have cost American exporters $15 billion to $19 billion in lost annual sales overseas and caused long-term damage to U.S. companies—lost market share and reputations abroad as unreliable suppliers.

As well as inflicting economic damage, sanctions have been a foreign policy flop. A comprehensive study by the Institute for International Economics found that sanctions achieve their objectives in fewer than 20 percent of cases. For example, the Nuclear Proliferation Prevention Act of 1994 failed to deter India and Pakistan from testing nuclear weapons in May 1998.

Further evidence of failure can be seen in the U.S. policy of extraterritorial sanctions aimed at third parties that do business with target nations. The two principal examples are the Iran and Libya Sanctions Act and the Cuban Liberty and Democratic Solidarity Act (also known as Helms-Burton), each approved by Congress in 1996. Both laws attempt to punish non-American companies that trade with or invest in the outlawed countries. Neither law has brought about any real change in the primary targets, but both have aroused resentment among business and political leaders in Canada and Western Europe. A policy intended to force U.S. allies to support sanctions against a common foe has instead alienated us from our allies and, if anything, made them more determined to continue their economic ties with the offending nations.

Why Sanctions Fail

Trade sanctions seldom work because of the competitive global marketplace and the nature of regimes most likely to arouse America's ire. Although the United States is by far the world's largest economy, its global economic leverage is limited. The United States accounts for only 13 percent of the world's merchandise exports and 16 percent of its imports. If Washington seeks to punish another country by unilaterally withholding exports, such as farm products, computers, or oil-drilling services, other global suppliers stand ready to fill the gap.

Even if sanctions inflict some pain on the target country, they typically fail because of the nature of the regimes most likely to become targets of sanctions. Human rights abuses tend to vary inversely with economic development. Governments that systematically deprive citizens of basic human rights typically intervene in daily economic life, resulting in underdeveloped and relatively closed economies. Such nations are the least sensitive to economic pressure. The autocratic nature of their governments also means that they are relatively insulated from any domestic discontent caused by sanctions. If anything, sanctions tend to concentrate economic power in the hands of the target government and reduce that of citizens.

America's ongoing embargo against Cuba illustrates the failure of sanctions. When the United States first imposed a comprehensive trade embargo in 1961, Cuba was conducting most of its trade with the United States. Since then, sanctions have utterly failed to influence the government of Fidel Castro, which has used the embargo to excuse its own policy failures and gain international sympathy. Although the embargo once enjoyed a measure of international support, today no other nation stands behind it. The reason is obvious: nearly 40 years after its imposition, the embargo has only hurt American companies and the Cuban people, while leaving the Castro regime firmly entrenched with little prospect of change. The manifest failure of U.S. policy prompted Pope John Paul II during his historic visit to Cuba in January 1998 to declare that sanctions are "always deplorable, because they hurt the most needy."

Another example of failure is U.S. policy toward Burma. In May 1997, with authorization from Congress, President Clinton issued an executive order banning most new American investment in Burma. In force for more than three years now, sanctions have failed to persuade the regime in Rangoon to cede political power to the opposition parties that won the 1990 national elections. The only result has been to push the people of Burma deeper into poverty and deprive them of the beneficial effects of engagement with American companies. Like many other targets of sanctions, the government of Burma is relatively insulated from political pressure from within and economic pressure from without, rendering sanctions ineffective.

Defenders of sanctions often cite South Africa as a success, but it is unrealistic to credit sanctions with the overthrow of apartheid. Far more important was the end of the Cold War, which reduced the fear among whites in South Africa that a black-controlled government would ally itself with global communism. Sanctions may have even prolonged apartheid by weakening the influence of Western companies in South Africa. According to the Investor Responsibility Research Center, disinvestment in South Africa led many Western companies to reduce their funding of civic organizations opposed to apartheid. The exodus of Western companies reduced wages and employment opportunities for black workers, thereby hindering the creation of a black middle class. To the extent that outsiders influenced developments in the country, it was through exclusion of South Africa from international sporting events such as the Olympics, which embarrassed and shamed the Afrikaner elite.

Sanctions against South Africa differed from most sanctions today in two key respects. One, they were multilateral, while the large majority of sanctions imposed by the United States since 1993 have been unilateral. Second, the apartheid government in South Africa was answerable to a limited but still sizable electorate of about 5 million whites, which made the government more sensitive to outside pressure. Given that multilateral sanctions against a semidemocratic government were not decisive, it is virtually guaranteed that unilateral sanctions against a dictatorship will fail.

Engagement, Not Isolation

U.S. influence around the world is strengthened by the presence of American multinational companies. Foreign direct investment is not only profitable for American shareholders; it also helps foster greater economic growth in less-developed nations. American companies introduce new technologies and production methods, while raising wages and labor standards. That creation of wealth helps to advance social, political, and economic institutions that are independent of the ruling authorities. Companies engaged in long-term investments in Burma and elsewhere also help to build schools, hospitals, and roads. "Ultimately, the problem with unilateral sanctions is that they cut the United States off from much of the rest of the world—isolating our nation and depriving other countries of the benefits of full engagement with us," notes Donald V. Fites, chairman and CEO of Caterpillar Inc. "The whole range of American activity in other nations transmits our values and ideals. But it has been our experience that trade and investment are particularly powerful tools for helping those values take root and grow." Zhou Latai, one of China's foremost labor attorneys who represents injured workers in the southern city of Shenzhen, puts it this way: "American consumers are a main catalyst for better worker rights in China. They are the ones who pressure Nike and Reebok to improve working conditions at Hong Kong- and Taiwan-run factories here. If Nike and Reebok go . . . this pressure evaporates."

Indeed, China offers a good example of how economic engagement can help to slowly but steadily change a country for the better. Over the past two decades, China has become America's fourth largest trading partner and the world's second largest recipient of foreign direct investment behind only the United States, and China will soon be a member of the World Trade Organization. China's internal market reforms and increasing openness have fostered rapid growth that has led to rising living standards and greater autonomy for citizens. The share of industry controlled directly by the government has fallen from almost 100 percent two decades ago to less than 50 percent today. Private ownership of homes and businesses is rising dramatically.

Continued economic engagement has also helped open the door to China for a growing number of organizations whose mission is to promote religious and political freedom. For example, East Gates Ministries International, headed by evangelist Ned Graham, has been able to distribute millions of Bibles to Chinese believers. More than a decade after the outrage of Tiananmen Square, the communist government has begun to release political prisoners and allow a small measure of internal criticism. As was the case in Taiwan and South Korea, China's economic liberalization is creating a foundation for a more vigorous civil society independent of government control.

China remains an oppressive dictatorship, but it is plainly, if haltingly, moving toward greater individual liberty and free markets. Congress has wisely recognized the positive role that engagement has played in bringing about such changes by approving permanent normal trade relations with China. Sanctions against other countries—such as Iran and North Korea—have also been relaxed in recent months. Despite those encouraging signs, U.S. sanctions policy remains a patchwork of contradictions and failed experiments. Why, for example, is open engagement considered good for China but not for Cuba? A central challenge facing lawmakers is to rationalize U.S. sanctions policy across the board by eliminating existing sanctions and raising barriers to their future proliferation.

Policy Recommendations

Sanctions are too often viewed by lawmakers as a convenient middle ground between diplomatic protest and the use of military force. Because the true costs of sanctions are hidden, it is tempting to turn to them when events abroad do not conform to U.S. wishes.

In reality, trade sanctions entail very real costs—most of which fall upon groups and individuals that were never intended to be penalized. To move toward a more balanced policy process, steps should be taken to raise the standard for the use of sanctions. Specifically, Congress needs to account for the inevitable costs—both hidden and direct—of sanctions. In addition, Congress should be aware that policy alternatives do exist.

To restrict the frivolous use of trade sanctions, Congress should adopt legislation that, at a minimum, would do the following:

Require a Finding That Any New Trade Sanction Will Be in the National Security Interest of the United States

Because sanctions impinge on the legitimate property rights of American citizens and rarely succeed in altering the behavior of target countries, the standard for their adoption should be more stringent than for other foreign policy actions. Thus, advocates of particular sanctions ought to describe in specific terms how the conduct of the target country poses a security threat to the United States and how sanctions will reduce that threat. In addition, Congress should appoint a task force to review existing sanctions and recommend dropping those that fail to meet the national security criterion. Existing sanctions against Cuba, Burma, and Yugoslavia, for example, do nothing to enhance U.S. national security and should be repealed.

Require an Analysis That Calculates the Economic Cost to the U.S. Economy of All Current and Proposed Trade Sanctions

Currently, major decisions on sanctions are made without consideration of data that measure their impact on U.S. businesses and consumers. Such an analysis should, at a minimum, include the direct costs of the sanctions as measured in terms of lost export sales. The monetary costs imposed on consumers and producers by retaliatory sanctions should also be included in the analysis. Other costs, such as damaged business reputations and lost foreign policy credibility, would be difficult to quantify but should at least be noted.

Provide Compensation to Domestic Companies Whose Investments Are Lost or Substantially Devalued As a Result of a U.S.-Imposed Sanction

It is one thing to deny U.S. government aid to a regime that is out of favor; it is quite another to prevent private individuals and companies from legally using their own property in another country. All future sanctions bills should contain appropriations to compensate injured investors. Such a move would clarify the real costs of sanctions and discourage lawmakers from interfering with any ongoing investment in a target country.

Establish a Time Limit on Any New Trade Sanction So It Does Not Continue Indefinitely by Force of Inertia

The 1996 sanctions against Iran and Libya prudently include a five-year sunset provision. The precise length of such provisions should be tailored to the specific case and could include mandatory congressional review, but they should not exceed five years. Because Congress would be free to extend sanctions beyond their statutory expiration date, target countries would not have any new incentive to defy U.S. policy. Sunset provisions would, however, help to get rid of sanctions that are clearly not working as intended. Time limits should not replace compensation paid to those whose investments are lost or devalued by U.S. government policies.

Give the President the Authority to Waive Any Sanctions Imposed by Congress

Because sanctions are a blunt instrument of foreign policy, they are often unsuited to the rapidly changing world of international relations. Thus, Congress should grant the president the authority to override all sanctions bills or specific provisions thereof. Such flexibility is crucial to early negotiations aimed at ending the objectionable policies of target countries. Without the possibility of immediate suspension, sanctioned governments will have little incentive to quickly change their behavior. The recent sanctions against India and Pakistan, for example, lacked waiver authority and thus deprived the president of substantial bargaining power in a time-sensitive situation. In addition, larger foreign policy goals—such as regional peace negotiations—may require credible promises to suspend existing sanctions. Congress would retain the authority, of course, to review and reverse any waiver decisions.

Require the President to Consult with Congress Following the Imposition of Sanctions by Executive Order

Although the president should retain a certain degree of flexibility with regard to sanctions, it is at times the duty of Congress to restrain the executive branch and always to chart the general course of U.S. foreign policy. The War Powers Act compels the president to submit to congressional review U.S. participation in any extended military conflict. Sanctions, as a form of economic warfare, should be held to the same standard.

Alternatives to Trade Sanctions

Trade sanctions have proven to be largely ineffective and should thus be used sparingly. That does not mean, however, that Congress is powerless. There are policy options that can effectively signal American displeasure with objectionable foreign behavior and punish offending parties without the collateral damage associated with traditional trade sanctions. Congress should make a concerted effort to use these policy tools as an alternative to sanctions.

Cut U.S. Aid

Congress should recognize that cutting U.S. aid to foreign countries is not a trade sanction. Suspending bilateral aid is a viable way to signal strong disapproval of the actions of foreign governments without violating the rights of Americans. Indeed, U.S. taxpayers benefit when their money ceases to flow abroad. Government loans and credits—such as those provided by the Export-Import Bank and the Overseas Private Investment Corporation—should not be spared from congressional action. Those programs represent taxpayer-subsidized benefits to which U.S. businesses have no legitimate claim. Foreign policy goals should take precedence over corporate welfare expenditures.

It should also be noted that U.S. foreign aid and the provision of loan guarantees and subsidized insurance to the private sector have reduced pressure in developing countries to create investment environments that would naturally attract foreign capital. Such programs have allowed recipient governments to avoid basic reforms, such as the establishment of secure property rights and clear economic policies. Ending those programs will help promote liberalization and should be a goal of U.S. policy (see Chapter 64). As long as aid continues, however, it is unreasonable to expect American taxpayers to support distasteful regimes. Selective suspension is therefore preferable to trade sanctions.

Narrowly Targeted Sanctions

Congress should also consider narrowly targeted sanctions that do not interfere with private transactions. In addition to cutting off aid, other options are available that can pressure foreign regimes without destroying mutually beneficial trade relationships. Such measures include

- banning travel of foreign officials to the United States;
- instructing U.S. directors at international financial institutions, such as the International Monetary Fund and the World Bank, to vote against loans to objectionable governments;
- cultural boycotts and sanctions, such as banning participation in international sporting events; and
- blocking trade with *specific* foreign companies that have been shown to engage in forced labor practices or sensitive technology transfers.

Conclusion

Undoing current sanctions and refraining from imposing new unilateral sanctions against Burma, China, Nigeria, and other nations is the best policy course for the United States. Such sanctions are ineffective, eschew normal diplomatic channels, and undermine our international relations. U.S. companies are often hurt, not only directly, but also indirectly because they gain reputations as unreliable suppliers. Congress should at a minimum adopt reforms that make clear to the public the costs of such sanctions to individual companies and the U.S. economy as a whole. We should abandon the practice of attempting to improve the conduct of other nations by restricting the freedom of our own citizens.

Suggested Readings

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