

Evaluating Measures to Enforce International Laws and Treaties



History of the Security Council

The United Nations Security Council is one of the original bodies of the United Nations, along with the General Assembly, the Economic and Social Council, Trusteeship Council, and International Court of Justice.¹ The Security Council was founded in order to ensure that the great powers at the time, France, the Soviet Union, the United States, the Republic of China, and the United Kingdom, stayed in the organization. The League of Nations, the forerunner of the United Nations founded after World War I, was handicapped throughout its existence as major powers commonly disregarded the organization's decisions, left the organization (such as Germany, Italy and Japan), or never joined the organization (the United States).² The exclusion of these countries denied the League of Nations the necessary legitimacy and resources it needed in order to reach its goal of a permanent and lasting global peace.

While all countries are represented on the General Assembly committees, the membership of the Security Council is limited to 15 members. There are 5 permanent members, who are currently China, France, the Russian Federation, the United Kingdom, and the United States who are always represented and have the ability to veto motions and resolutions that they disagree with. In the instance when one permanent member votes against a substantive motion or a resolution, that motion or resolution will fail, even if all the other countries vote in favor. There are 10 non-permanent members who are elected by the 5 regional groups: The African Group, Asia-Pacific Group, Eastern European Group, Group of Latin American and Caribbean States, and Western European and Other Group. These members can propose resolutions and participate in debates for their 2-year terms. Additionally, when the Security Council is discussing an issue concerning a specific country (or countries) they are allowed to participate in the debate, but not vote on any resolutions. The current non-permanent members are:

The Security Council is given the ability to use armed force, among other measures, in order to uphold international peace. Sanctions are a key measure that are used to enforce international law, treaties and Security Council resolutions. But, sanctions have existed in one form or another before the Security Council.

History of Sanctions

¹ "Chapter III." *Charter of the United Nations*. <http://www.un.org/en/sections/un-charter/chapter-iii/index.html>.

² "The United Nations Security Council and War: The Evolution of Thought and Practice since 1945." Lowe, Vaughan, Adam Roberts, Jennifer Welsh, and Dominik Zaum, eds. *Oxford University Press*. Print.

Sanctions are not a measure that were invented by the United Nations, but have a long-history in their use by nations and the United Nations forerunner, the League of Nations. One of the first recorded incidents of sanctions celoms from Ancient Greece; where in 432 BCE Athens placed Megara under a trade embargo.³ Sanctions continued to be a crucial part of diplomacy, with sanctions becoming more intricate in the 1800s. During the Napoleonic Wars fought from the 1790s to 1815, France fought various wars with the other powers of continental Europe as well as the United Kingdom. From 1806-1814 Napoleon attempted to force all countries on continental Europe to stop trading with the United Kingdom in order to weaken the British economy and force them to end their blockade of metropolitan France.⁴ This trade embargo, known as the Continental System, is an early example of an economic sanction.

Sanctions became a formalized tool to preserve international security in the League of Nations Covenant, its governing document. The League was granted the power to enforce its orders in Article 16, through use of military force or economic sanctions.⁵ The most notable test of the League of Nations' sanctions was the Italian-Ethiopian War. Italy illegally invaded Ethiopia and the League sought to force Italy to withdraw by issuing economic sanctions to cripple the Italian economy, in the midst of the Great Depression, and harms its ability to supply its military.⁶ Although the sanctions helped prevent arm sales to Italy by fellow League Members, it did not targeted oil and coal, two crucial resources for the economy and military and members outside the League continued to trade with Italy.⁷ Ultimately, the United Kingdom and France failed to make the sanctions costly enough to Italy to force it to abandon its invasion of Ethiopia. The failure of the League of Nations in the face of Italian aggression was a principal reason for its eventual downfall and the creation of the United Nations and, specifically, the Security Council.

Since 1966, the Security Council has placed 30 sanction regimes over a variety of nations and groups such as: South Rhodesia (modern day Zimbabwe), South Africa, Haiti, Iraq (twice), Sudan, North Korea, and the Taliban.⁸ These sanctions have varied from economic sanctions, targeting financial assets or important commodities such as oil and diamonds, to military and diplomatic sanctions. The United Nations can place sanctions on nations, armed groups, such as the Taliban, and individuals, such as warlords and dictators. There are currently 14 active sanctions implemented by the Security Council against: Central African Republic, North Korea, Democratic Republic of the Congo, Guinea-Bissau, Iran, Iraq, Lebanon, Libya, Somalia/Eritrea, South Sudan, Sudan, Yemen, and two terrorist groups, Al-Qaida/Taliban and ISIL.⁹

The Legal Basis for UNSC Sanctions

³ "Smart Sanctions: A Short History." *Foreign Policy*. <https://foreignpolicy.com/2012/04/23/smart-sanctions-a-short-history/>.

⁴ "A Close-Up On: 'The Continental System or Blockade.'" *Naploean.org*. <https://www.napoleon.org/en/history-of-the-two-empires/close-up/a-close-up-on-the-continental-system-or-blockade/>.

⁵ "Economic Sanctions under the League of Nations." *Economic Sanction and International Enforcement*. https://link.springer.com/chapter/10.1007%2F978-1-349-04335-4_4.

⁶ "Sanctions and Security: The League of nations and the Italian-Ethiopian War, 1935-1936." *International Organization*. https://www.jstor.org/stable/2706096?seq=1#page_scan_tab_contents.

⁷ "1935 Sanctions Against Italy: Would Coal and Crude Oil have Made a Difference." *Oxford University*. <https://www.nuffield.ox.ac.uk/economics/history/paper14/14paper.pdf>.

⁸ "Sanctions." *United Nations Security Council*. <https://www.un.org/sc/suborg/en/sanctions/information>.

⁹ "Currently Active Sanctions Regimes and Restrictons." *United Nations*. http://www.un.org/en/sc/repertoire/data/sanctions_regimes_graphs.pdf.

Although the use of sanctions predates the United Nations and Security Council, and are enacted outside of a Security Council resolution, it is still important to understand where the Security Council draws its power from in order to impose sanctions. Articles 39, 40, and 41 of the United Nations Charter lays out the sanction power. Article 31 reads, in part, that when the Security Council has determined there is a breach of peace or a threat of peace, the Security Council can make recommendation or take actions in order to maintain or restore peace.¹⁰ Article 40 continues by declaring that the Security Council will consider a failure to comply with its orders as an escalation of the situation.¹¹ At which point, Article 41 outlines that the Security Council can choose not to use force of arms to restore peace, but can start by initiating a “complete or partial interruption of economic relations and of rail, sea, air postal, telegraphic, radio and other means of communications, the severance of diplomatic relations.”¹² These 3 Articles of the UN Charter form the legal basis for the Security Council’s ability to enact and enforce sanctions.

Types of Sanctions and their Impacts

Sanctions can be broadly defined by the number of countries implementing sanctions and the type of sanctions implemented. In order to best understand the effects of sanctions, we must first understand the different types.

Unilateral

Unilateral sanctions are those that are implemented by a single country against one or another group of countries. Meaning that they are implemented without coordination with other nations, without the endorsement from or at the order of an international body, such as the Security Council.¹³ While these sanctions most prominently impact the country issuing the sanctions and the country who the sanctions are being imposed on, it can also negatively and, occasionally, positively impact other nations. The American trade embargo of Cuba, which began as an embargo on military weapons in 1958, but was extended to include nearly all commercial products in 1962, is a type of unilateral sanction as it was implemented by the United States and was not done at the request of the Security Council or the Organization of American States. For both the United States and Cuba, the embargo is economically costly, preventing the sale of American products in Cuba and the sale of Cuban products in the United States. However, for countries not imposing an embargo on Cuba, it has made it so their products are more likely to be purchased in Cuba as they have no competition from American products. The effects of the American embargo are estimated at \$130 billion on the Cuban economy since it was implemented.¹⁴ Unilateral sanctions are rarely effective because a targeted country can replace the goods that they lose by going to other nations.

Multilateral

When sanctions are imposed in a coordinated effort by a variety of nations, the sanctions become multilateral. These multilateral sanctions tend to be more effective as the nation that is being

¹⁰ “Chapter VII.” *United Nations Charter*. <http://www.un.org/en/sections/un-charter/chapter-vii/index.html>.

¹¹ *Ibid*.

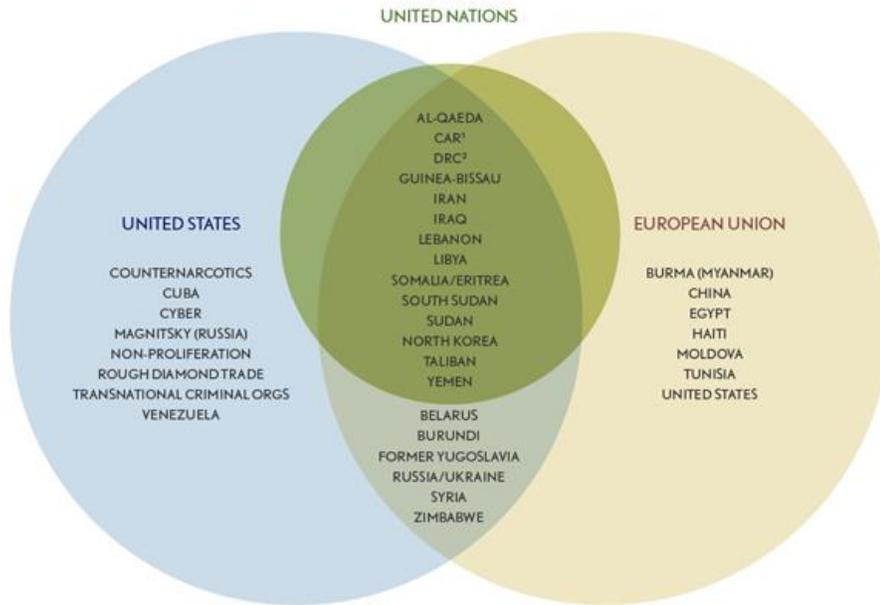
¹² *Ibid*.

¹³ “Use and Effect of Unilateral Trade Sanctions.” *Brookings Institute*. <https://brook.gs/2MVyEbz>.

¹⁴ “U.S. trade embargo has cost Cuba \$130 billion, U.N. says.” *Reuters*. <https://reut.rs/2KYO0dy>.

sanctioned as fewer potential partners that will be willing to replace the services or goods lost due to the sanctions.

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However, there is a second type of multilateral sanctions, those voted upon by the United Nations Security Council. These can be sanctions decided and endorsed by the UNSC, such as those against the Taliban in Afghanistan or, more recently,

against South Sudan and North Korea.

Economic vs. Military Vs. Diplomatic Sanctions

While the difference between multilateral and unilateral sanctions is important, the type of sanction is central to understanding the impact of sanctions on a nation. There are three main types of sanctions: economic, military and diplomatic. Economic sanctions are measures that are implemented against a nation’s or its citizen’s finances, such as freezing the bank accounts of its citizens; or the cessation of trade relationships between two nations, such as the embargo of Cuba by the United States. These sanctions can vary in scope from targeting specific individuals, as sanctions implemented by most NATO nations against Russia have targeted key supporters of Putin by freezing their bank accounts and preventing their travel to those nations; or be very broad, such as banning all imports and exports to and from a nation. Military sanctions can take the form of either military strikes into a nation or a ban on the sale of arms and weapons through an arms embargo. For example, in October 2006, the Security Council passed Resolution 1718 which imposed sanctions on the sale of weapons, missile technology and material, as well as luxury goods such as fine wines and jewelry to North Korea.¹⁵ Often there is significant overlap between economic and military sanctions as banning the sale of weapons to a country is harming that nation’s military capabilities while also harming its economy. Even more common are for military sanctions on the sale of weapons to be combined with economic sanctions such as banning luxury items or freezing financial assets. The third most common type of sanction, diplomatic sanctions, usually involve either reducing a country’s diplomatic presence in your country or closing some of its embassies or consulates in order to express your disapproval. Diplomatic sanctions are usually taken as a first step by a nation before more extreme and costly sanctions, military and economic, are implemented. In 2018, Russia expelled 60 US

¹⁵ “What to Know About the Sanctions on North Korea.” *Council on Foreign Relations*. <https://www.cfr.org/backgrounder/what-know-about-sanctions-north-korea>.

diplomats and closed the American Consulate in St. Petersburg in response to similar American diplomatic sanctions placed on Russia.¹⁶

The Impact of Sanctions and the Case Against Them

While sanctions are an important tool of the Security Council and individual nations who want to force countries to abide by international laws, there are serious debates about whether sanctions are effective and whether their burdened is shared by the correct groups. In the First Gulf War, triggered by Iraq's invasion of Kuwait, the Security Council sought to force Iraq out of Kuwait through economic and military sanctions. However, he refused to leave and the Security Council was forced to authorize a military operation to push him out.¹⁷ Moreover, perhaps the most long-lasting sanction regime in place, the American embargo of Cuba, has failed to force out the communist led government, who remain in power 60 years after its implementation. In both of these cases, the sanctions have not been effective, failing to cause a change in the targeted nation's behavior. Many scholars believe that sanctions are only effective 20-30% of the time, a terrible track record of success.¹⁸ In many cases even when the Security Council passes sanctions, countries and companies continue to trade with the sanctioned governments. French bank BNP Paribas was fined nearly \$9 billion for lending money to sanctioned Cuban Iranian and Sudanese groups in 2014 in violation of American and Security Council sanctions.¹⁹ Even governments which typically comply with sanctions have been found to periodically flout them. Namibia has continued to trade with and hire North Koreans and North Korean companies, a clear violation of Security Council sanctions.²⁰

Moreover, when the Security Council placed sanctions on Iraq, it caused basic commodities, such as food, soap and toilet paper, to increase in price by 1,000% between 1990 and 1995.²¹ This caused infant mortality to increase by 150% and doctors estimate that between 670,000-880,000 children died as a result of the sanctions.²² The impact of sanctions on average citizens in North Korea has been even more harsh. By sanctioning food aid and agricultural technical assistance, the international community contributed towards several famines during the 1990s that some believe killed nearly 1 million North Koreans.²³ As the sanction regime has continued and been harshened in recent years, there are many fears that a similar famine will be sparked. While sanctions are seeking to force North Korea to end its nuclear program and stop its gross violation of human rights, North Korea has continued to do both and shows little sign of stopping. If sanctions are rarely effective and do little to stop or harm those in power, then why should the international community and the Security Council continue to implement them?

¹⁶ "Russia expels US Diplomats and shuts consulate in tit-for-tat move." *CNN*. <https://www.cnn.com/2018/03/29/europe/russia-expels-us-diplomats-intl/index.html>.

¹⁷ "Economic Sanctions: Too Much of a Bad Thing." *Brookings*. <https://brook.gs/2nJlfJJ>.

¹⁸ "The impact of economic sanctions." *World Finance*. <https://www.worldfinance.com/special-reports/the-impact-of-economic-sanctions>.

¹⁹ "What Are Economic Sanctions?" *Council on Foreign Relations*. <https://www.cfr.org/background/what-are-economic-sanctions>.

²⁰ "Namibia dismisses U.N. expert's claims on North Korea ties." *Reuters*. <https://reut.rs/2yLMRli>.

²¹ "The impact of economic sanctions." *World Finance*.

²² "The impact of economic sanctions." *World Finance*.

²³ "'Too many soldiers to feed': North Koreans fear more sanctions as drought threatens famine." *The Guardian*.

<https://www.theguardian.com/world/2017/aug/23/north-koreans-fear-more-sanctions-as-drought-pushes-millions-towards-malnutrition>.

Case Study

In order to understand how to improve sanctions, we must analyze a successful sanction regime.

Libya

A terrorist attack against a flight from New York to London killed 259 people on the flight and 11 people on the ground in Lockerbie Scotland in 1988 was linked to the Libyan government.²⁴ Over the next several years the western governments began to implement sanctions against Libya in order to punish them. Around the same time Libya began to pursue a weapons of mass destruction program, attempting to build nuclear weapons. This culminated in Security Council Resolution 748 in 1992 which imposed an arms, air and diplomatic embargo on Libya.²⁵ The Security Council subsequently passed Resolution 883 in 1993 and 1192 in 1998 which both tightened sanctions on Libya by freezing financial assets and banning the sale of oil equipment to Libya.²⁶ As Libya's economy was highly dependent on oil, this sanction seriously damaged their economy. Eventually Libya handed over 2 suspects who were thought to have planned the Lockerbie airplane bombing and paid compensation to the victim's families.²⁷ This also coincided with Libya announcing that it would no longer pursue weapons of mass destruction, allowing inspectors into the country, and shipping existing nuclear centrifuges to other countries for destruction.²⁸ Many believe that sanctions played an important role in driving the Libyan government to renounce terrorism and its weapons programs because the sanctions targeted its most vital economic sector and seriously punished leading members of the government.²⁹ However, some researchers have argued that while the sanctions were important in pushing Libya to disarm, it was not the crucial factor in their decision. Rather they contend that Libya was already experiencing a weak economy and that the sanctions simply multiplied this weakness by targeting the oil sector.³⁰ Libya's disarmament is regarded as one of the few success stories of Security Council sanctions.³¹

Questions to Consider

- How successful are sanctions in enforcing international law?
- To what extent can viable alternatives be created that enforce international law while not inflicting misery on citizens?
- How can sanctions be improved so they impact who they are aimed at?
- To what extent do sanctions harm every-day citizens?

²⁴ "Lockerbie bombing: what really happened." *The Week*. <http://www.theweek.co.uk/93369/lockerbie-bombing-what-really-happened>.

²⁵ "History of UN Sanctions on Libya." *Global Policy Forum*. <https://www.globalpolicy.org/component/content/article/195-libya/42383.html>.

²⁶ Ibid.

²⁷ "Key facts: Libya sanctions." *CNN*. <http://www.cnn.com/2004/WORLD/africa/02/10/libya.sanctions.facts/index.html>.

²⁸ "Was Libyan WMD Disarmament Significant Success for Nonproliferation." *Nuclear Threat Initiative*. <http://nti.org/4356A>.

²⁹ Ibid.

³⁰ "Sanctions as a nonproliferation tool: Lessons from Libya." *Comparative Strategy*. <https://www.tandfonline.com/doi/abs/10.1080/01495933.2016.1222830?src=recsys&journalCode=ucst20>.

³¹ "What Are Economic Sanctions?" *Council on Foreign Relations*.