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MFN Status, Trade Embargoes, Sanctions and Blockades: An Examination of Some Overlooked Property, Contract and Other Human Rights Issues

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Abstract

Most Favored Nation (MFN) status, trade embargoes and blockades have traditionally been used to entice nations to alter their behavior or to punish them for certain behavior. The intentions behind these policies are generally noble, at least on the surface. However, instituting these policies has side-effects. For example, FDR's blockade of raw materials against the Japanese in Manchuria in the 1930s arguably led to the bombing of Pearl Harbor, which got the United States involved in World War II. The decades-long blockade of Cuba not only did not lead to the topple of the communist regime there, but may have strengthened Castro's hold on the island and has created animosity toward the United States in Latin America and much suffering by the people of Cuba. Various studies have concluded that blockades and economic sanctions generally have not been effective from a utilitarian or policy perspective, yet these policies continue.

This paper briefly examines the literature on MFN status, trade embargoes and blockades, but goes beyond the normal utilitarian analysis into some overlooked issues involving property and contract rights and other human rights. Particular attention is paid to the use and possible abuse of MFN status as applied to the People's Republic of China and North Korea, and the trade sanctions against Cuba and Iraq. The paper concludes that a mere utilitarian analysis is insufficient when determining whether trade sanctions should be imposed on a country whose behavior is deemed inappropriate by some segment of the international community. Certain rights issues must also be considered.

Introduction

There is a widespread belief that we should not trade with our enemies, either for moral reasons or reasons of national defense. But once one looks beneath the surface of this policy, deep cracks appear. From a strictly utilitarian view, it might be in a nation's best interest to trade with enemies, either because doing so will have more good effects than bad in the economic sense, or because trading with an enemy might be in the national interest.

Most favored nation (MFN) status, trade embargoes and blockades have traditionally been used to entice nations to alter their behavior or to punish them for certain perceived unethical or undesirable behavior. The intentions behind these policies are generally noble, at least on the surface. However, instituting punitive measures or withholding normal trade status has side-effects. For example, President Franklin Delano Roosevelt's blockade of raw materials against the Japanese in Manchuria in the 1930s arguably led to the bombing of Pearl Harbor, which got the United States involved in World War II (Willet and Jalalighajar 725; Wu 267; Martin 114; McGee 1994a: 24). World War I was preceded by tariff and trade wars and many other wars were, in part at least, the result of protectionist trade policies (Turner; Fay; A.J.P. Taylor; J.K. Taylor; Sorokin). Perhaps the earliest case of trade sanctions leading to war occurred in 432 B.C. when Athens imposed trade sanctions on Megara, which triggered the Peloponnesian War (Bartlett: 1).

Even if the trade sanction does not lead to a shooting war, other adverse consequences often result. The nation instigating the sanction is often harmed more than the targeted enemy country. One of President Jimmy Carter's less brilliant moves was to cut off the supply of wheat to the Soviet Union (Hufbauer et al. 1990a: 163-174). U.S. wheat farmers were prohibited from selling to the Soviets, so they sold it to Canada and the Canadians sold it to the Soviets, thus depriving U.S. farmers of a profit opportunity with no corresponding gain to offset their losses. The only predictable outcome of such restraints is that the individuals who are prohibited from making the sale will lose the sale to someone else (Ravenal).

Economic sanctions generally do not work (Doxey; Knorr; Willett and Jalalighajar; Hufbauer, Schott and Elliott 1990a, b). At most, they will raise the price of the restricted good in the country intended to be punished. The countries that participate in the sanctions will lose sales without being able to show any corresponding benefit. In fact, sanctions often increase animosity between countries that are already not on friendly terms (McGee 1994a: 24).

China, North Korea and MFN

Threatening to deny China MFN status not only serves no useful purpose but also is counterproductive. It only increases the antagonism that already exists between China and the United States. It would be very easy for China to throw business to European Union countries out of spite for the U.S. attitude, and in fact

it has been accused of doing so in the case of aircraft manufacturing, to cite just one example (Duffy and Harrold: 4).

Cancellation of China's MFN status would cost American jobs and would hurt the U.S. economy. Trade with China supports as many as 200,000 American jobs. Many of these jobs would be lost if China's MFN status were revoked. At least, they would be lost in the United States. America's job losses would result in job gains in Germany, France, Japan and other countries that continue to treat China as a good trading partner. American consumers would also pay higher prices for many goods. (Duffy and Harrold: 2).

There is ample evidence to show that liberalizing trade leads to political liberalization. Both South Korea and Taiwan moved from authoritarian and semi-closed regimes to free democratic regimes because free trade was permitted to break down barriers (Dorn: 1). It is likely that the same would happen eventually in China and North Korea if given the chance.

The Cuban Blockade

The Cuban blockade has not worked (Hufbauer et al. 1990b: 194-204). Castro has been able to maintain his grip on power while numerous U.S. Presidents have been elected, assassinated, unelected and retired. One commentator has stated that the Cuban case serves as "a monument to the ineffectiveness of unilateral economic sanctions as a foreign policy tool." (Anderson 1998:1) The Cuban people continue to suffer from the blockade, a

situation that Castro uses to political advantage by blaming all of Cuba's troubles on the United States. In the Cuban case, U.S. hypocrisy is especially evident because of its two-faced policy regarding secondary boycotts. The Helms-Burton Law would punish foreign companies that do business with Cuba, yet another law prohibits American companies from recognizing the secondary boycott the Arab League has against Israel (Anderson 1996: 1).

The Cuban sanctions invite retaliation. Because of the sanctions the Helms-Burton law imposes on Canadians, a coalition of Canadian groups has pushed for a Canadian boycott of Florida, which, if successful, could lead to a loss of some \$1.3 billion in Canadian tourist revenue. The European Union also had plans to retaliate against American companies if Congress enforced the Helms-Burton law against European companies that did business with Cuba (Anderson 196: 1-2).

The Helms-Burton law is also causing American companies to lose business. Canadian, Mexican and Spanish investors are having a field day in Cuba, since U.S. companies are prohibited from competing there (McGugan). Many native Cubans now living in Florida would love to invest in Cuba, or at least visit. But they can't because of the U.S. sanctions. Rather than prohibit trade with Cuba, Cuba's oppressive system could better be undermined by free and unrestricted trade (Vásquez and Rodriguez).

The Iraqi Sanctions -- Killing Children in the Name of Morality

Saddam Hussein is not a nice man. He is a threat to his neighbors as well as his own people. He will not let the Kurds secede. He will not let his own people enjoy the freedoms that westerners take for granted. The U.S. - led embargo is aimed at taking him out of power. But at what price?

The Iraqi embargo has been called a method of mass murder. Each month, 4,500 Iraqi children under the age of five die from hunger and disease. More than a million people have died so far because of the sanctions. More than half a million of them have been children. Child mortality rates have increased six-fold since the start of sanctions. Diseases such as cholera have reached epidemic proportions and there is not enough medicine to stop it. There has been a complete breakdown of water and sanitation services (Raimondo: 1-2).

Yet Hussein remains in power, long after President Bush and the generals who tried to unseat him during the Gulf War have departed from the scene. Hussein uses the embargo to rally his people against real or imagined attacks from the West. He is the symbol of Iraqi independence. What has the Iraqi embargo accomplished, other than killing a million innocent civilians and intensifying hatred for the West?

Some Overlooked Rights Issues

Sanctions are a form of warfare. But whereas a shooting war (in the old days, at least) involved only soldiers, sanctions involve only civilians (Raimondo: 1). Not only do sanctions punish the innocent civilian population, but they often punish people who are already being victimized by their own government. Thus, sanctions are a double evil. The people of Cuba, Iraq and North Korea are prime examples, but not the only ones. Just like the mentality of the American army during the Vietnam War -- we have to destroy the village in order to save it -- sanctions aim at destroying or greatly weakening an economy in order to save the people from the government that is oppressing them.

Sanctions generally do not work, and even when they are not a total failure, they have adverse consequences. They rarely can be justified even on utilitarian grounds, since embargoes are a negative-sum game. There are more losers than winners.

A suggestion has been made in an attempt to get around the negative-sum game and shoot yourself in the foot aspects of most sanctions. Anderson (1997; 1998) suggests that Congress should:

- Require an analysis that measures the economic cost to the U.S. economy of all current and proposed economic sanctions;
- Provide compensation to U.S. companies whose investments are lost or devalued because of a U.S. - imposed sanction;
- Establish a time limit on any new economic sanction;

- Require an explicit national security justification for any new economic sanction; and
- Grant China a multi-year waiver for most-favored-nation trading status.

While adoption of these suggestions would alleviate part of the problem in some cases, at its base Anderson's suggestion is faulty because he begins from the wrong premise. Basically, he advocates undertaking only those sanctions that result in a positive-sum game, which is at least better than the situation we have now. He also advocates compensating those companies that would lose under a particular sanction, which is a great improvement over present policy. And he would include a sunset provision to make sure the sanction eventually is automatically lifted. (Anderson 1998:1). But his suggested improvements are flawed because they are utilitarian-based.

Most economists subscribe to the utilitarian philosophy in spite of its two fatal flaws -- the inability to measure gains and losses (Rothbard 1970: 260-268) and the total disregard for individual rights (McGee 1994b). A better approach is to ask whether anyone's property, contract or association rights have been violated. If the answer is yes, then the policy is a bad one and should not be implemented. If the answer is no, then the activity should not be prohibited, even if it may be immoral. It is not the government's job to make people moral, but only to prevent them from violating each others' rights.

The basis of this rights approach lies in the nonaggression axiom, which states that the initiation of force is never justified. Thus, if a policy involves the initiation of force, it is inferior to a policy where there is no initiation of force. The initiation of force must necessarily violate some human right. In the case of trade policy, the initiation of force -- threatening to punish someone who trades with a prohibited person or country -- violates the property, contract and association rights of the individuals who wish to trade. Sanctions, embargoes and blockades all violate property rights because they prevent consenting parties from trading what they have for what they want. They violate the right to contract because they prohibit consenting individuals from entering into them. They violate association rights because they do not permit consenting individuals to associate for the purpose of trade. Thus, embargoes, sanctions and blockades are losers on all three counts.

What would happen to the evil dictators of the world if there were no embargoes, sanctions or blockades? In a sense, this question is itself illegitimate because it is based in the utilitarian philosophy of winners and losers. Once the question is asked, one begins to think of the winners and losers from such a policy and attempts to weigh them to see whether the result is a positive-sum game, when in fact the main issue -- are someone's rights violated -- is totally ignored. The only way to prevent individual rights from being violated is to lift all sanctions, embargoes and blockades and allow individual buyers and sellers to make their own decisions regarding with whom they want to trade. If some individuals refuse to buy products that may be made with child labor, they should

be able to make that choice for themselves. If others do not mind buying such products, let them do it. At least they will be helping some poor family to raise its total family income, even if the concept of child labor is repugnant to those of us who are fortunate enough to live in a different world. The correct approach to trade policy is not to be found in any utilitarian analysis. It must be based in rights theory.

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