
Policy Brief #10

The Atlantic Council of the United States, The Middle East Institute,
The Middle East Policy Council, and The Stanley Foundation

U.S. Challenges and Choices in the Gulf: Unilateral U.S. Sanctions

This policy brief is based on presentations and discussions at the 12th in a series of jointly sponsored off-the-record congressional staff briefings on "U.S. Challenges and Choices in the Gulf." The views and opinions expressed in this policy brief do not necessarily represent those of the sponsoring organizations. To receive information on future briefings, please contact Susan Roggendorf, at e-mail address: sroggendorf@stanleyfoundation.org.

Unilateral U.S. sanctions have been increasingly applied in the Gulf, though they have largely failed to bring about desired changes of behavior on the part of targeted countries such as Iran and Iraq. This has led many regional experts to argue that sanctions, once tools of policymaking, now constitute *de facto* U.S. policy in and of themselves. To be more effective in the future, U.S. policy should aim for internationally supported sanctions that are increasingly targeted and better balanced with incentives. They should also contain provisions for expiration unless explicitly renewed.

I. The History and Changing Nature of Unilateral U.S. Sanctions in the Gulf

U.S. Sanctions in the 1970s and 1980s

In the 1970s and 1980s, the sanctions imposed by the United States on Gulf countries tended to be unilateral, the product of executive orders and focused on Iran. President Carter used executive orders to impose asset freezes and other measures on Iran during the revolution and hostage crisis of 1978 to 1981. In the 1980s, President Reagan issued additional executive orders to put arms sanctions on Iran.

Though Libya is not a Gulf state, it is worth noting that President Reagan also used executive orders to ban U.S. trade and some financial transactions with Libya (and to block Libyan government property and interests) as early as 1986, in response to the Qaddafi regime's support of terrorist organizations.

U.S. Sanctions in the 1990s

By the 1990s, unilateral U.S. sanctions in the Gulf were not producing the desired policy outcomes, in large measure because of the increasing ability and willingness of other states to provide banned goods and services to those countries sanctioned by the United States. The U.S. response was to begin altering the types of sanctions it imposed. Those initiated in the 1990s were usually multilateral instead of unilateral, aimed particularly at the ruling elites of sanctioned countries¹ and supported by "secondary sanctions" on those states supplying banned goods and services to targeted regimes.

Perhaps the most notable multilateral sanctions regime imposed on a Gulf state in the 1990s was that against Iraq on 6 August 1990 by the United Nations Security Council (UNSC), following Saddam

¹ This was done through asset freezes, travel bans and arms embargos.

Hussein's invasion of Kuwait. The UNSC also imposed a multilateral sanctions regime on Libya (beginning with Resolution 748 of 31 March 1992), in response to the Libyan government's failure to cooperate with the United Nations (UN) in establishing responsibility for the bombing of Pan Am Flight 103.²

In addition to these, U.S. unilateral sanctions against both Libya and Iran remained in force, culminating in the Iran-Libya Sanctions Act of 1996 (ILSA), which introduced sanctions against foreign firms investing in either country's energy sectors.³ Significantly, those sanctions imposed by the United States unilaterally during the 1990s were much more likely to stem from acts of Congress than from executive orders.

Many analysts contend that the 1990s also saw U.S.-imposed sanctions transformed from *instruments* of policy to policies *in and of themselves*. For while President Carter's executive orders were clearly aimed at (and arguably helpful in) securing the release of the U.S. hostages in Tehran, the Iran-Libya Sanctions Act featured a larger set of demands and a lack of incentives for changes in behavior on the part of the targeted countries. Indeed, such incentives – in the form of partial or provisional lifting of sanctions in exchange for changes in a state's policies or practices – seemed so conspicuously lacking as to suggest to many in the region that the real goal of U.S. sanctions in the Gulf was to effect changes of regime rather than behavior.

A final trend evident in the 1990s was the increasing "privatization" of U.S. sanctions. The Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) allowed private U.S. citizens affected by terrorist acts to sue the implicated governments of countries on the State Department's list of state sponsors of terrorism ("terrorism list") in U.S. civil courts. In seeking to transfer the frozen assets of sanctioned countries to some of the private U.S. citizens harmed by such countries' policies or practices, these judgments amount to sanctions in and of themselves. The judgments also help to keep existing U.S. unilateral sanctions in place by posing a legal barrier to the normalization of economic and political relations. Iran, Libya and Cuba have been the most frequently sued countries under the AEDPA.

Current U.S. Sanctions in the Gulf

The United States currently maintains sanctions on Iran, Iraq and Libya, as well as sanctions on Syria (based largely on its designation by the State Department as a state sponsor of terrorism) and on Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, the United Arab Emirates and Yemen under the Foreign Relations Authorization Act for 1994 and 1995.⁴ U.S. sanctions on Iran are unilateral, though some other countries also maintain sanctions on Iran. By contrast, U.S. sanctions on Iraq and Libya are a combination of

² UN sanctions on Libya were suspended in 1999, following the hand-over of the two Pan Am 103 bombing suspects for trial in the Netherlands. The suspects were Libyan intelligence agents.

³ European governments have long protested these provisions as amounting to secondary sanctions which are incompatible with the rules of the World Trade Organization (WTO). As a result of their determined resistance to ILSA as well as European Union (EU) threats to retaliate with its own sanctions, the United States has never enforced the provisions of the law vis-à-vis European firms.

⁴ This act specifies that the United States may not provide defense materials to countries enforcing secondary and tertiary aspects of the Arab League boycott of the state of Israel, which call for discrimination against U.S. and other foreign firms that wish to do business with both Israel and boycotting countries. However, the arms embargo provisions of this act have been waived by the President every year since its inception for all the countries of the Gulf except Iran and Iraq. This is because the Gulf Cooperation Council countries (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates) announced in September 1994 their non-adherence to the secondary and tertiary aspects of the boycott (a decision that Kuwait had announced previously). In 1996, both Oman and Qatar ended boycott enforcement and established reciprocal trade arrangements with Israel. Yemen formally renounced observance of the secondary and tertiary aspects of the boycott in 1995.

unilateral sanctions and international sanctions imposed by the United Nations. A lifting of UN sanctions would not imply an end to U.S. sanctions (as demonstrated by the suspension, since 1999, of only UN sanctions on Libya).

II. Are U.S. Sanctions in the Gulf Effective?

To gauge the effectiveness of U.S. sanctions in the Gulf, one must first consider the logic that underlies them. Generally, sanctions are an economic means to a political end. Policymakers hope that sanctions will so limit the resources of a target country as to force changes in that country's policies and behavior. However, successfully limiting a country's economic resources does not always achieve the desired political ends of a sanctions regime. There are often unintended negative consequences that accrue to the country (or group of countries) imposing them. Thus, assessing the effectiveness of U.S. sanctions in the Gulf requires answering three separate (if linked) questions.

- Have U.S. sanctions in the Gulf successfully limited the resources of target countries?
- In so doing, have U.S. sanctions achieved their stated political goals?
- Have U.S. sanctions produced unintended negative consequences?

Limiting Resources

U.S. sanctions in the Gulf have indeed limited the resources of target countries in the sense that Iraq and Iran (and also Libya) would be richer today but for U.S. sanctions. Most notably, U.S. unilateral sanctions deny to Iran and Libya advanced U.S. technology and the substantial investment dollars of U.S. companies. Sanctions also deny them access to potentially lucrative U.S. markets for the vast majority of their exports. However, the effectiveness of these sanctions is diminished by the forces of globalization. In contrast to previous decades, there are now many countries competing with the United States to supply key technologies, industrial goods and investment funds to emerging economies. As a result, U.S. sanctions on Iran and Libya cannot preclude these states from developing, for example, their oil sectors, because countries like France and Italy, which do not maintain strong sanctions regimes, can step in to provide crucial technologies and investment.

For this reason, nearly all experts agree that sanctions regimes are more effective when they are multilateral (as opposed to unilateral). Sanctions on Iraq were successful in severely limiting the resources of that country in 1994 and 1995 because they were led by the United Nations and enforced by Iraq's key trading partners and neighbors. By the end of the 1990s, however, deep divisions over the question of "smart sanctions" had arisen within the UN Security Council. This, combined with the evident smuggling of oil and other commodities through Jordan, Syria and Turkey, effectively compromised the sanctions that had once done much to isolate Iraq economically.

Achieving Goals and Shifting Goalposts

UN sanctions on Iraq have been comparatively more successful in squeezing Baghdad's finances than have U.S. unilateral sanctions on Iran or Libya. Nevertheless, even the former have been seemingly unsuccessful in achieving their stated goals of forcing Saddam Hussein to disarm and to cease the repression of his own people. U.S. sanctions in the Gulf – especially those that have been imposed unilaterally – appear to have a poor record indeed when their success is measured in terms of achieving explicitly stated objectives. Despite decades of sanctions, the United States has been unable to coerce Iran into forgoing either its sponsorship of violence against Israel or its programs to develop weapons of mass destruction (WMD). For its part, Libya has so far refused to accept responsibility for the 1988 bombing of Pan Am flight 103 and some of its regional behavior continues to frustrate U.S. policymakers.

In the case of Iraq, limiting the country's resources has been ineffective in influencing its behavior because Saddam Hussein uses what little funds he can access to oppress and manipulate his people. While hoarding precious oil revenues, he blames the United Nations and, in particular, the United States, for the miserable lot of the Iraqi people. Sanctions on Iran have also largely failed to meet their stated goals, though for different reasons. For even with U.S. sanctions in place, many experts believe that Iran has enough money to be able to spend what it chooses on WMD development. By this logic, though Iran would be richer if U.S. sanctions were removed, it would not necessarily spend any more money on the programs and policies that the United States opposes.

This is not to say that U.S. unilateral sanctions in and around the Gulf have achieved none of their objectives. There is evidence to suggest that early sanctions on Iran helped to win the release of U.S. hostages in 1981 and that sanctions have played a role in convincing Mu'ammar Qaddafi to curtail Libya's support for international terrorism. However, many experts argue that such signs of progress have been (and will remain) few and far between so long as the United States fails to offer incentives – in the form of reduced sanctions or removal from administration “black lists,” such as the list of state sponsors of terrorism – in recognition of incremental changes in a target country's policies or behaviors. These experts are guided by the assumption that “carrot and stick” diplomacy can only be successful if those targeted by U.S. sticks are convinced that carrots are indeed attainable.

Critics of U.S. unilateral sanctions in the Gulf and elsewhere go further – insisting that U.S. sanctions garner little response from target governments because they seem aimed at distant and constantly moving goal posts. Such critics wonder why, for example, Libya should be at all responsive to U.S. demands given that its renunciation of terrorism (and cooperation in U.S. efforts to gather intelligence on al Qaeda) have not led to a significant reduction of sanctions or to Tripoli's removal from the terrorism list. Recent U.S. administration announcements that it ultimately seeks regime change in Iraq have made governments in the Gulf even more convinced that nothing short of the end of the current regimes in Iran and Libya will bring about the removal of U.S. sanctions on those countries.

The Unintended Negative Consequences of Unilateral Sanctions

Whatever the successes of largely unilateral U.S. sanctions in the Gulf, such sanctions have also produced unintended negative consequences. Perhaps the most pervasive of these is growing “anti-Americanism” among the populations of Gulf states caused by, among other things, the perception that U.S.-led UN sanctions on Iraq are largely responsible for the suffering and impoverishment of Iraqi civilians. Though many within and outside the U.S. government believe that it is rather Saddam Hussein's hoarding and misuse of UN oil-for-food monies that perpetuates the plight of his people, the Iraqi dictator has nevertheless managed to reap propaganda value from U.S. and UN sanctions.⁵

Another example of the unintended negative consequences of U.S. sanctions is the revenue that has been accrued by the government of Libya through national exploitation of U.S.-held oil leases, including, notably, the Waha Concession. U.S. sanctions on Libya forced U.S. companies to discontinue active involvement in 1986, thereby allowing the Qaddafi regime to reap a substantial windfall from purely domestic operation of U.S.-held properties. In effect, U.S. sanctions designed to limit the resources of the Libyan government have actually led Tripoli to garner millions of dollars in oil revenues that would have otherwise gone to U.S. companies. An arguably less palpable (but equally noteworthy) negative

⁵ It is worth noting that, since 1994, no U.S. sanctions have been imposed without first consulting the UN Office for the Coordination of Humanitarian Affairs.

consequence of U.S. unilateral sanctions in the Gulf is that ILSA's secondary sanctions provisions have generated political friction and economic feuding between the United States and its European allies.

III. The Future of U.S. Unilateral Sanctions: Avoiding Potholes

To be more successful in the future, U.S. policy should aim for internationally supported sanctions that are increasingly targeted and better balanced with incentives. They should also contain provisions for expiration unless specifically renewed.

Since multilateral sanctions are far more effective in limiting the resources of a target state and forcing changes in that state's behavior than are unilateral sanctions, the United States should work with the United Nations as substantively and as often as possible when looking to impose sanctions. Alternatively, the U.S. government might seek to form regional coalitions around a particular sanctions regime such that a target country's major trade outlets are curtailed (or at least effectively monitored). Future U.S. sanctions might also look to include the suppliers of key goods to a targeted country. This approach has been proposed (but rejected for reasons of national interest) vis-à-vis Russia's continuing sales to Iran of civilian nuclear technology and conventional weaponry.

The increasing privatization of U.S. sanctions – including, most notably, civil court judgments against countries found on the State Department terrorism list – reduce the ability of the U.S. government to adjust or alter its sanctions policies in response to changing circumstances. Such suits can also be detrimental by opening the door to counter-suits against the U.S. government. For example, an Iranian court recently awarded a \$500 million judgment against the U.S. government for alleged mistreatment of an Iranian citizen by U.S. authorities. New legislation or amendments to laws currently in force may be necessary in order to curb (and ultimately end) this phenomenon.

For this and other reasons, sanctions are often more difficult to remove than they are to put in place, even in the event that circumstances do change significantly. Future sanctions imposed by the United States should contain both provisions for periodic independent review and the presumption that they will expire unless specifically reauthorized.

The most successful U.S. sanctions in the 1990s were targeted at key groups (the elites of sanctioned states) and key commodities (i.e. small arms in Africa). Where appropriate, moving from broad, global sanctions toward targeted “smart” sanctions may enable the United States to rally international support, limit negative propaganda and maximize the effectiveness of its efforts.

Finally, many experts suggest that U.S. unilateral sanctions would be more effective if they were better complemented with incentives for incremental improvements in the behavior of target states. For example, though the U.S. government might well view lifting sanctions on Libya as premature, given ongoing concern over Libya's weapons programs, regional behavior and policy towards the bombing of Pan Am flight 103, the State Department should consider removing Libya from the terrorism list once it is satisfied that Qaddafi has indeed cut all his ties to international terrorist organizations.