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Post-Conflict Environments: A Research Agenda**

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The Regulatory Potential of International Sanctions in Post-Conflict Environments: A Research Agenda

This Issues Paper sets the parameters for a research project exploring the effectiveness of international sanctions as a post-conflict regulatory tool. The research will survey the precedents for sanctions interventions by Australia and the United Nations, identifying particular measures that have been used, who they have been employed against, and under what circumstances they have been imposed. The project is designed to explore the potential of sanctions and what influence they have in post-conflict environments. The research project will advance proposals to improve future post-conflict sanctions policy.

The major aims of the research are to:

- i. Explore the theoretical framework underpinning the use of international sanctions in post-conflict societies;
- ii. Undertake case-studies of situations in which international sanctions have been employed as a post-conflict regulatory tool;
- iii. Examine and assess the strengths and weaknesses of sanctions as a post-conflict regulatory tool; and
- iv. Advance institutional designs to enhance the potential of international sanctions in post-conflict environments.

I. Project Background

International sanctions represent a key tool at the disposal of the international community in its efforts to maintain peace and security. Sanctions can be collective, as in the case of mandatory United Nations (UN) sanctions imposed by the UN Security Council (see Table 1). They can also be bilateral, as in the case of measures currently applied against Zimbabwe and Fiji by the Australian (and other) governments. A range of measures can be employed as part of a sanctions regime. Article 41 of the UN Charter provides that sanctions can include ‘complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations’ (Article 41, UN Charter).

Due to Cold War politics, the UN Security Council was only able to apply sanctions twice between 1945 and 1989. The Council imposed economic sanctions against Southern Rhodesia in 1966 and an arms embargo against South Africa in 1977 (Table 1). Since the end of the Cold War, however, there has been a dramatic expansion in the use of UN sanctions. The Security Council’s application of sanctions against North Korea and Iran in the final months of 2006 has brought to twenty-five the total number of UN sanctions regimes (Table 1). The Council has employed comprehensive economic sanctions on five occasions: against Southern Rhodesia (1968-1979), Iraq (1990-2003), the Federal Republic of Yugoslavia (Serbia-Montenegro) (1992-1995), the Bosnian Serbs (1993-1995), and Haiti (1993-1994).

But increasingly the Council has chosen to apply 'smart' or 'targeted' sanctions (*Expert Seminar*, 1998; *Targeted Financial Sanctions*, 2001; *Making Targeted Sanctions Effective*, 2003). These measures can target particular goods or commodities, such as arms (South Africa), oil (Southern Rhodesia and Haiti before comprehensive sanctions were applied), timber (Liberia) or diamonds (Angola, Sierra Leone, Liberia). They can also take the form of assets freezes and travel bans targeting the finances and movement of individuals and groups posing a threat to international peace and security (Taliban and Al Qaida).

This research will explore a new trend in international sanctions policy. The basic objective of international sanctions has traditionally been to maintain or restore international peace and security (Articles 39 and 41, UN Charter). Sanctions have thus sought to prevent conflict or to restore peace once conflict has broken out. In theory, the primary purpose of sanctions should therefore be achieved once conflict is resolved. But international sanctions are increasingly being maintained beyond the end of conflict in order to bolster fragile peace processes and promote good governance and respect for human rights. In Liberia the Security Council has maintained diamond and timber sanctions in an effort to prevent the illegal exploitation of these natural resources (SC Res. 1521 (2003)). The Council also applied a travel ban and assets freeze against associates of former President Charles Taylor and others posing a threat to Liberian peace and security (SC Res. 1521 (2003) and SC Res. 1532 (2004)). In the Democratic Republic of the Congo (DRC), the Council has applied travel bans and assets freeze against political and military leaders who undermine the peace process, recruit child soldiers or commit serious violations of international law involving targeting children (SC Res. 1649 (2005) and SC Res. 1698 (2006)). In our own region, Australia has taken action to ensure the domestic implementation of all of these measures. The Australian government has also maintained its own prohibitions upon the export of weapons and weapons systems to post-conflict societies such as the Solomon Islands and Bougainville.

The research will therefore explore the theory and practice of post-conflict international sanctions, including both UN sanctions and bilateral sanctions imposed by Australia as part of its foreign policy. The primary focus will be on understanding and evaluating this new tool for regulating post-conflict environments. Should the turn to post-conflict sanctions be encouraged? What are the benefits and costs of employing such an approach? Which sanctions prove most effective in post-conflict environments? Which kinds of actors are most susceptible to sanctions? Which actors are impervious to such measures? What unintended consequences can sanctions have for civilian populations? How do sanctions interact with human rights? What innovations are sanctions policy-makers toying with for the sanctions system? How might experiments with them proceed to be evaluated? What implications might these findings have for Australia's future interventions in the Asia-Pacific region?

II. Project Significance

The primary significance of this research project lies in the fact that it will be the first comprehensive attempt to explore post-conflict sanctions as a distinct phenomenon. Existing sanctions studies tend to explore general sanctions trends (Doxey 1996; Cortright 2000, 2002b; Gowlland 2001; Farrall 2007), focus on specific sanctions regimes (Gowlland 1990; Graham-Brown 1999; Gibbons 1999), or analyse particular types of sanctions (*Targeted Financial Sanctions* 2001; Cortright 2002a). No major study has systematically explored the theory and practice of international sanctions in post-conflict environments. This research will thus produce theoretical and policy-oriented outcomes that will be the benchmark for and guide the future application and enforcement of international sanctions in post-conflict situations.

Sanctions form a valuable foreign policy tool with which to address a wide range of threats that can take root and find sanctuary in vulnerable post-conflict societies, where the rule of law is weak. Such threats range from the illegal exploitation of natural resources to organised crime to international terrorism. Australia has a long history of actively supporting and enforcing the implementation of UN sanctions. Successive Australian governments have also shown a willingness to impose bilateral sanctions to promote regional stability when deemed necessary. This research will provide important data on the most efficient and effective use of sanctions in promoting regional stability. The research will enhance Australia's overall capacity to employ bilateral and multilateral sanctions when necessary to foster sustainable peace in post-conflict environments.

This project will facilitate scholarship with an Australian perspective on the issue of international sanctions. To date there has been limited engagement by Australian scholars with issues involved in the application and enforcement of international sanctions (Leaver 1988, 1997; Nossal 1994; Farrall 2007). There is at present, however, considerable Australian interest in sanctions as a result of the Cole Enquiry into the sanctions breaking activities of the AWB in Iraq through the Oil-for-Food Programme (*Cole Inquiry Report* 2006). On top of this comes the Australian government's decision in May 2007 to ban the Australian cricket team from touring Zimbabwe because of the despotic nature of the ruling regime of President Robert Mugabe in Zimbabwe. Given the national and international political climate the time is ripe to engage in innovative research on international sanctions.

The research will strive for innovation in both its theoretical and practical dimensions. By applying the insights of regulatory theory and critical international legal and international relations theory to the problem of post-conflict sanctions, the research will generate new insights into both the potential and the limitations of sanctions as a post-conflict regulatory tool. Regulatory theory will be employed to explore the broader regulatory context within which post-conflict sanctions interventions take place (Braithwaite 2002, 2006). Critical international legal and international relations theory will play a key role in reflective analysis of the structural biases facilitating and constraining particular sanctions interventions (Charlesworth 2000, 2006; Korhonen 2001).

Concepts such as nodal governance will be valuable in examining the network of non-state actors affected by and critical to the effective implementation of sanctions (Shearing and Wood, 2006; Bowden 2006). This means there will be less of a focus on the whole set of transnational governmental networks (Slaughter 2002) and more attention paid to how resources and political connections are tied together at certain strategic nodes. Because of their nature post-conflict situations tend to lie beyond the reach of conventional or Western, state-based approaches to maintaining law and order and resolving conflict. A key question is therefore which types of actors, actions and norms hold the greatest potential to influence the future direction of post-conflict environments? And what role might these actors, actions and norms play vis-à-vis attempts to use international sanctions as a post-conflict regulatory tool? In this regard legitimacy and perceptions of legitimacy are a crucial factor in the success or otherwise of sanctions regimes.

The research will identify and engage with actors revolving around strategic nodes of governance with respect to the implementation, humanitarian impact and effectiveness of post-conflict international sanctions. The perspectives of a wide range of actors in the field will be sought, including government officials, representatives of the diplomatic community, and members of national and international civil society representing a diverse constituency of interests. Particular attention will be paid to whether and under what circumstances post-conflict sanctions decrease (or increase) the likelihood of conflict reigniting.

Post-conflict societies with weak governance structures and limited rule of law are vulnerable to organised crime and even terrorist networks taking root. The breakdown of law and order provides space and opportunity for those looking to benefit from the illegal movement of peoples, money and information. Australia continues to play a pro-active role in enforcing UN sanctions against outsider regimes and in post-conflict societies, such as the sanctions presently being enforced against Iraq, Iran and North Korea. Australia has also taken a regional lead by applying bilateral sanctions against countries whose actions pose a threat to regional stability, such as Fiji. These sanctions are crucial in safeguarding Australia from a wide range of real and potential threats, from nuclear proliferation to the illegal drug trade to money laundering.

By focusing the attention of Australian (and international) scholars and practitioners on the regulatory potential of international sanctions in post-conflict environments, this research will make a significant contribution to strengthening Australia's foreign policy knowledge base and resources, not the least human resources. The research will generate a new body of intellectual knowledge and practical expertise surrounding the use of international sanctions in general and the employment of sanctions as a post-conflict regulatory tool in particular.

This research will also provide insights and policy guidelines on ameliorating the wider regional and international ramifications that flow from unstable post-conflict societies. One of these important policy arenas is ensuring the most efficient and effective use of sanctions against outsider and post-conflict societies. Individually and collectively these projects enhance Australia's capacity to understand its immediate region and the world while allowing it to better engage with its neighbours and the broader international community.

III. Project Methodology

The research will be structured around the four major aims outlined above. The method will consist of analysis of relevant texts (particularly what happened after sanctions were applied), regulatory theory and sanctions case-studies. The research will also attempt to shift to a more evidence-based post-conflict sanctions policy.

The initial phase of the research (2008) will be devoted to a careful survey of literature addressing the history, theory and practice of international sanctions (e.g., Doxey 1996; Gowlland 2001; Cortright, 1997, 2000, 2002a, 2002b; Farrall 2007). Particular attention will be paid to aspects of this literature touching on the post-conflict use of sanctions. A workshop will be organised on the use of international sanctions in post-conflict environments. The workshop, which will take place at ANU, will involve fifteen participants who are leading scholars and practitioners in sanctions use, regulatory theory, international law, international relations and diplomacy.

The intermediate phase of the research (2009-2010) will focus on in-depth practical case-studies. There will be two African case-studies (Liberia and the Democratic Republic of the Congo) and two Pacific case-studies (the Solomon Islands and Bougainville). In the two former cases the UN Security Council has applied a range of sanctions designed to promote post-conflict stability. In the two latter cases, the Australian government has strongly supported region-wide initiatives to combat small arms proliferation (*National Small Arms Statement*, 2005). The Australian government closely restricts exports to these destinations of Australian weapons and weapons systems (*National Small Arms Statement*, 2005). Australia has also applied travel restrictions against individuals who undermine efforts to build sustainable peace (e.g. measures applied against Solomon Islands and PNG officials in relation to the Moti affair). The research will examine the reasons for these qualitatively different experiments in post-conflict peacebuilding, analysing the strengths and weaknesses of each approach and exploring the merits of future sanctions interventions in post-conflict environments.

During the intermediate phase (2009-2010), insights gained from the literature review, workshop and field visits will be used to examine trends that cut across all case-studies. The strengths and weaknesses of each post-conflict intervention will be evaluated; including what constitutes a success and what a failure. Particular attention will be paid to the background context leading to successes and failures in sanctions policy.

During the final phase (2011), the focus will be on advancing practical, concrete policy recommendations designed to maximise the regulatory potential of international sanctions in post-conflict environments. These proposals will be presented in a monograph, policy papers and refereed journal articles.

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TABLE 1: Mandatory UN sanctions regimes applied by the UN Security Council under Chapter VII of the UN Charter

<i>Sanctions regime</i>	<i>Initiated</i>	<i>Terminated</i>
232 Southern Rhodesia	SC Res. 232 (16 December 1966)	SC Res. 460 (21 December 1979)
418 South Africa	SC Res. 418 (4 November 1977)	SC Res. 919 (25 May 1994)
661 Iraq	SC Res. 661 (6 August 1991)	<i>Continuing</i>
713 Former Yugoslavia	SC Res. 713 (25 September 1991)	[note verbale: SCA/96(4) (18 June 1996)]
733 Somalia	SC Res. 733 (23 January 1992)	<i>Continuing</i>
748 Libya	SC Res. 748 (31 March 1992)	SC Res. 1506 (12 September 2003)
757 FRYSM	SC Res. 757 (30 May 1992)	SC Res. 1074 (1 October 1996)
788 Liberia	SC Res. 788 (19 November 1992)	SC Res. 1343 (7 March 2001)
820 Bosnian Serbs	SC Res. 820 (17 April 1993)	SC Res. 1074 (1 October 1996)
841 Haiti	SC Res. 841 (15 June 1993)	SC Res. 944 (16 October 1994)
864 Angola (UNITA)	SC Res. 864 (15 September 1993)	SC Res. 1448 (9 December 2002)
918 Rwanda	SC Res. 918 (17 May 1994)	<i>Continuing</i>
1054 Sudan	SC Res. 1054 (11 March 1996)	SC Res. 1372 (28 September 2001)
1132 Sierra Leone	SC Res. 1132 (8 October 1997)	<i>Continuing</i>
1160 FRY	SC Res. 1160 (31 March 1998)	SC Res. 1367 (10 September 2001)
1267 Afghanistan/Taliban/Al Qaida	SC Res. 1267 (15 October 1999)	<i>Continuing</i>
1298 Eritrea and Ethiopia	SC Res. 1298 (17 May 2000)	S/PRST/2001/14 (15 May 2001)
1343 Liberia	SC Res. 1343 (7 March 2001)	SC Res. 1521 (22 December 2003)
1493 DRC	SC Res. 1493 (28 July 2003)	<i>Continuing</i>
1521 Liberia	SC Res. 1521 (22 December 2003)	<i>Continuing</i>
1556 Sudan	SC Res. 1556 (30 July 2004)	<i>Continuing</i>

<i>1572 Côte d'Ivoire</i>	SC Res. 1572 (15 November 2004)	<i>Continuing</i>
<i>1636 Hariri suspects</i>	SC Res. 1636 (31 October 2005)	<i>Continuing</i>
<i>1718 North Korea</i>	SC Res. 1718 (14 October 2006)	<i>Continuing</i>
<i>1737 Iran</i>	SC Res. 1737 (27 December 2006)	<i>Continuing</i>

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