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# BETWEEN WAR AND WORDS

Can economic deterrence help  
uphold international stability?

Jack Connolly

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## Executive summary

Last year economic sanctions were used on an unprecedented scale to defend the sovereignty and self-determination of Ukraine. The idea that these tools could be consolidated into a more enduring multilateral instrument to uphold fundamental international norms, is already being mooted. From becoming the last century's original tool of last resort sanctions have become, by its most prolific user's own admission, the tool of first resort this century. In West Africa, many of Niger's neighbours have since responded in similarly comprehensive terms to its coup. Across the G7 and beyond officials are reflecting on their experience of mounting the largest economic response to a security crisis in institutional memory; recent historical research has revealed a distant precedent that is poorly understood among policy makers. So what lessons could they draw from their recent action, and what instruction does history provide? Six lessons can be drawn to inform future policy and practice, and a series of reforms could be adopted by a range of sanctions actors. Countries could go further in creating a focused but broad-based mechanism as a backstop to the traditional international peace and security architecture, including the G7's role in the international financial system to ensure that, in its own words, future belligerents cannot remain a member in good standing of the global economic and political system as long as they flagrantly violate international norms at the cost of others.

## Introduction

Reflection has already begun, in a little-noticed annex to the G7 leaders' summit statement in 2022 - 'Supporting Ukraine Through Responsible Sanctions Against Russia'<sup>1</sup>. Primarily a retrospective on its action, it could provide the skeleton for sanctions reform, and any future mechanism. While "recognising the primary responsibility of the United Nations Security Council in maintaining international peace and security", it recalled sanctions' "valuable role in defending and upholding international rules and norms". The statement proposed key principles behind the application of economic measures. They should:

- "support international rules and norms that protect the sovereignty and territorial integrity of states"
- "protect access to basic humanitarian needs [...] including the availability of food, agricultural goods, medicines, and humanitarian assistance"
- "ensure that they work over a sustained period, allow stability in global markets and the global economy, and are tailored to mitigate unintended consequences"

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<sup>1</sup>Annex to G7 Leaders' Statement on Support for Ukraine - *Supporting Ukraine Through Responsible Sanctions Against Russia* (Elmau, 27 June 2022).

- [be] “implemented in a coordinated fashion including with partners beyond the G7 to compound their impact”
- [be used] “flexibly and proportionately, adjusting them in response to changing circumstances”
- “implemented [...] consistent with national authorities and prerogatives [...] and [...] strictly adhere to the rule of law including the possibility of seeking judicial review”

Leaders committed to review their response to Russia and identify new areas of cooperation, including new “mechanisms” to do so. Yet this is not the first time such a group has considered the application of such principles. A century ago officials were reflecting on their experience of mounting a new kind of economic response to the belligerent Central Powers of WW1, and whether and how this “fourth fighting service”<sup>2</sup>, as they came to put it, should be integrated into foreign policy and a new international order. Nicholas Lambert<sup>3</sup> and Nicholas Mulder’s<sup>4</sup> recent scholarship has illuminated the tensions of the pre-and-interwar years of the 20<sup>th</sup> Century, as policymakers began to balance the logic that a new phenomena of ‘global economic interdependence’ might deter conflict, with the potential to use that interdependence as a weapon of statecraft. We see in the story of the League of Nations’ Article 16 deterrent, and its subsequent revision into today’s Article 41 of the UN Charter, familiar efforts to grapple with how economic power can be collectivised to deter, and how to deal with non-participating states.

It is perhaps a disconcerting idea that these periods should resonate, much less instruct policy makers today, but those efforts to reflect on the role of sanctions in a highly integrated global economy, offer lessons nevertheless. This paper seeks to integrate the historical, legal, and more contemporary practitioners’ perspectives on the question of whether economic measures can play an effective role in upholding international stability. While this paper draws primarily on existing literature, it is not a comprehensive literature review and is complemented by the author’s own reading of the British Government’s papers at the UK National Archives in Kew, experience in government, and the wisdom of countless other practitioners around the world. The paper first considers what the cumulative wisdom of sanctions history and contemporary experience tells us about the function of economic deterrence. The second part of the paper suggests how those insights might be applied in practice today.

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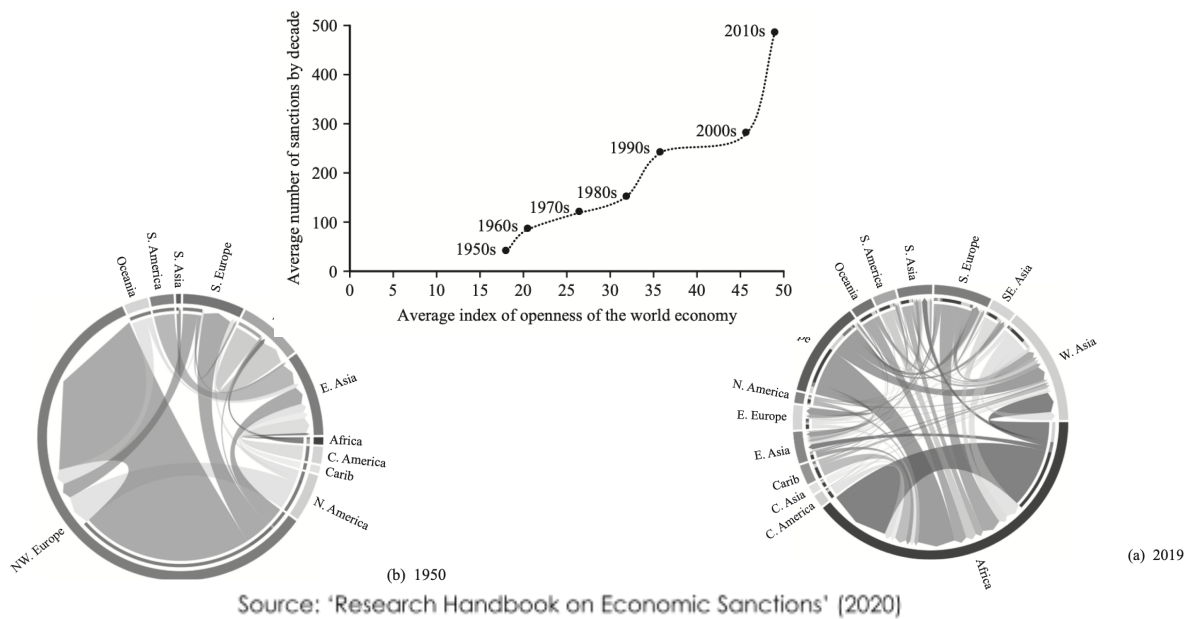
<sup>2</sup> The UK Treasury’s top economist, Ralph G. Hawtrey, reflecting on the British blockade of the Great War, in May 1926: “The blockade organisation was really a fourth Fighting Service”. In Mulder, N. *The Economic Weapon: The Rise of Sanctions as a Tool of Modern War* (Yale University Press: 2022). p.144

<sup>3</sup> Lambert, N. *Planning Armageddon: British Economic Warfare and the First World War* (Harvard University Press: 2012)

<sup>4</sup> Mulder, N. *The Economic Weapon: The Rise of Sanctions as a Tool of Modern War* (Yale University Press: 2022).

## Considerations for policy and practice

**Even before Russia's invasion of Ukraine, sanctions use globally was at an unprecedented peak, posing new challenges for international coordination.** While post-war sanctions use has risen broadly in line with globalisation<sup>5</sup>, or slowed, the last two decades have seen a significant spike in their use across every continent (see comparison of sanctions use between UN 'geoschemes' over time below). In 1960 the percentage of US trade under sanction was under 1%, rising to 5% by 2016; by 2019 it stood at 13%<sup>6</sup>. While the US remains the preeminent user of sanctions, China has engaged in ten sanctions actions between 2010 and 2018, triple that of all Chinese cases between 1978 to 2000<sup>7</sup>. Between 2000 and 2022, the African Union used sanctions 20 times against 15 of its member states<sup>8</sup>. Between 2004 and 2015 the EU introduced more than 40 sanctions against 17 states<sup>9</sup>. ECOWAS has imposed sanctions on Mali, Guinea and Burkina Faso in recent years, and has adopted comprehensive economic and financial measures against Niger since its military coup of July 2023<sup>10</sup>.



Source: 'Research Handbook on Economic Sanctions' (2020)

<sup>5</sup> See Kirikakha, A., Felbermayr, G. J., Syropoulos, C., Yalcin, E., & Yotov, Y. V. *The Global Sanctions Data Base (GSDB): an update that includes the years of the Trump presidency*. Research Handbook on Economic Sanctions, Chapter 4 (Elgar Publishing: 2021)

<sup>6</sup> Analysis of US merchandise imports 2019 as cited in Hufbauer and Jung. *Economic Sanctions in the twenty-first Century*. Research Handbook on Economic Sanctions, Chapter 2 (Elgar Publishing: 2021)

<sup>7</sup> Nephew, R. *China and economic sanctions: Where does Washington have leverage?* Brookings Institute Research Paper (2019)

<sup>8</sup> ISS Peace and Security Council Report - *Strengthening the AU's Sanctions Regime* (ISS: 2022).

<sup>9</sup> Horbelt, C. *A comparative study: where and why does the EU impose Sanctions*. Revista UNISCI / UNISCI Journal, No.43. (2017)

<sup>10</sup> ECOWAS Leaders' Final Communique – *Extraordinary Summit of the ECOWAS Authority of Heads of State and Government on the political situation in Niger* (Abuja 30 July 2023)

If the charts were to only represent UN Security Council sanctions, the trend would be even more stark. In its first 45 years the Council adopted sanctions just twice: against Southern Rhodesia (1966), as it then was, and against apartheid South Africa (1977). Since the end of the Cold War at least twenty UN sanctions regimes have been created. Despite states' reservations about their use it is notable the extent to which most also accept that, in the words of Kenya's Permanent Representative to the UN (quoting a former Secretary General), sanctions are a "necessary middle ground between war and words"<sup>11</sup>. On this basis alone it is reasonable to conclude that sanctions are here to stay, and their adoption across most regions, and in such variety and numbers, presents a strong case for reform and better international cooperation to improve their efficacy and limit unintended impacts, in particular for humanitarian reasons. This is considered further under 'Policy Options' below; how that reform and cooperation is carried out, should heed the following lessons of history.

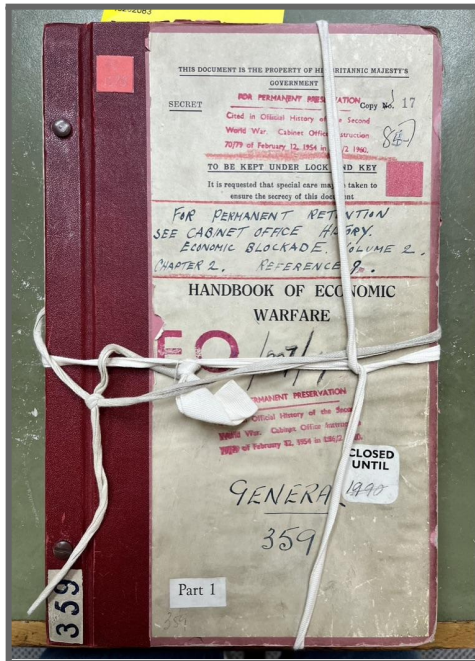
**As policy makers explore how sanctions might be better collectivised to deter, they must first consider how a deterrent's intended beneficiaries affect its strategic purpose and design.** There is a prevailing model in Euro-Atlantic circles - a defensive coalition of states insulated from aggression or coercion through membership of an economic deterrent. Some have suggested an 'Economic NATO' or 'Economic Article 5'<sup>12</sup> - *narrow in membership, broad in scope*. The EU's recent 'Anti-Coercion Instrument'<sup>13</sup> is a softer manifestation of this logic. But there is also another logic, and the focus of this paper, where a much wider group of states might place a deterrent at the international community's disposal for upholding widely accepted fundamental international norms, when a belligerent is able to block normal courses of redress like the Security Council - *an instrument broad in membership, narrow in scope*. While the instinct may be to realise both models - indeed existing proposals sometimes blur intent - as countries consider how each sort of deterrent is put into practice, they will quickly discover the very different political economy of achieving each, and the need to maintain a sense of proportion around which economic tools are appropriate for each.

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<sup>11</sup> Kenya's Permanent Representative to the UN Michael Kapkiai Kibono quoting former Secretary General Annan, during SC/14788, February 2022. Secretary General Annan first said this in his 2005 explanatory note to the UN Human Rights Council - *In Larger Freedom: Towards Development, Security and Human Rights for All*. A/59/2005 (2005) Paragraph 109

<sup>12</sup> Fogh Rasmussen, A. and Daalder, I. *Memo on an 'Economic Article 5' to Counter Authoritarian Coercion*. (Alliance of Democracies: 2022)

<sup>13</sup> Council of the European Union Press Release. *Trade: political agreement on the anti-coercion instrument* (March 2023)



### British Handbook of Economic Warfare, 1938

*It is no coincidence that sanctions history is not well understood. Unlike the chronicling of the war on land and sea, official reflections on the British blockade of the Central Powers in WW1 were censored for decades. By the time a version was printed in 1937, it remained confidential until 1961<sup>14</sup>. The key archives of the successor blockade in WW2 were not declassified until 1990. Sanctions often exposed deep philosophical divisions with governments, perhaps to an extent not seen in other domains of conflict.*

Since their invention, policymakers have always been torn between the potential for sanctions to enhance a state's bilateral power, and their more enlightened fulfilment as a guarantor of an international order envisaged in the Covenant of the League of Nations, and today in the United Nations Charter. Despite the risk of blurring the lines between lower forms of economic action, and harder sanctions, states have consistently been tempted into pursuing both. As Britain supported the adoption of the League of Nations' original sanctions deterrent - 'Article 16' - it also undertook extensive research into how "coercive measures appropriate for adoption in peace to settle international differences without recourse to war"<sup>15</sup>, might be achieved. So it is today, as all permanent members of the Security Council exercise a range of bilateral economic tools, while (albeit variably) supporting the Article 41 UN Sanctions regime. The growth and acceptance of these tools generally has led to more plurilateral varieties of an economic deterrent emerging, which if not handled properly, could further blur the boundaries of sanctions use.

**In any case, the greatest lesson from history is that broad and unified sanctions coalitions are the biggest determinant of success, however hegemonic any single participant might be.** The same was true of last year, as the weight of European trade, the preeminence of the dollar, and centrality of British financial services were joined to

<sup>14</sup> Lambert, N. *Planning Armageddon: British Economic Warfare and the First World War* (Harvard University Press: 2012). p.13

<sup>15</sup> 'Handbook of Economic Warfare', 1939. FO 837/3. See also the earlier sub-committee of the 'Advisory Committee on Trading and Blockade in Time of War' (ATB), on 'Economic Pressure'.



degrade an aggressive state's ability to invade another. While it is understandable that states should develop their own economic statecraft, they should do so on the basis of a shared vision for the use of economic tools, and a shared interpretation of their compatibility with their upholding of a free and open global economy.

The G7's predecessors have been here before at the dawn of the integrated global economy in 1900, after a quadrupling of global trade in as many decades. The theory that a newfound 'economic interdependence' between the world's foremost industrial powers would only allow for a short war, unless global social and economic disintegration was to follow, "possessed a respectable intellectual pedigree and was supported by a considerable body of liberal intellectual thought"<sup>16</sup>. This thinking took particular hold in the superpower of the day. While measured solely in size and output, Britain's industrial economy was certainly matched by the rise of Germany and the USA - just as China matches the USA today - but its dominance over global trade maintained a preeminent position unmatched in history since. More than 90% of global trade was seaborne, of which more than half was British flagged and financed through London, while its navy controlled the freedom of navigation and the coal bunker network necessary to facilitate that trade<sup>17</sup> (88.96 percent of the world's total merchant fleet depended exclusively on coal, of which Britain supplied more than 80%<sup>18</sup>). Through Lloyds of London and the Baltic Exchange, the vast majority of global trade was insured and processed. In effect, the City was "the world's bank, the world's clearinghouse, the world's greatest stock exchange, the only free market for gold, the chief source of money and credit to facilitate international exchange, and the hub of the global communications network"<sup>19</sup>. Sterling was the world's preeminent reserve and international exchange currency, and British firms controlled up to 70% of the global cable network underpinning all modern trade and communication<sup>20</sup>.

The British government set about examining how a prolonged war could be averted by Germany's short and sharp disconnection from global commerce. The British inquiry lasted more than three years, and while the extent of this idea's adoption in cabinet is still debated, two things were clear by the spring of 1914: "economic warfare had become *the* cornerstone of British grand strategy in the event of a war with

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<sup>16</sup> Lambert, N. *Planning Armageddon: British Economic Warfare and the First World War* (Harvard University Press: 2012). p.2

<sup>17</sup> Ibid. See introduction

<sup>18</sup> Zeller, J. *British Maritime Coal and Commercial Control in the First World War: Far More Than Mere Blockade*. *Canadian Military History* 24, 2 (2015) p.41

<sup>19</sup> Lambert, N. *Planning Armageddon: British Economic Warfare and the First World War* (Harvard University Press: 2012). p.21

<sup>20</sup> Ibid, p.23

Germany"<sup>21</sup>, but the impact of such a conflict was assessed at best, unclear, and at worst, nothing short of global economic armageddon. Britain's pre-war architect Lord Desart confessed in 1912: "the conditions of trade with the interwoven interests of nations and individuals have created conditions under which no great European war has yet been waged, and history does not afford very much material for our guidance"<sup>22</sup>. Sure enough, the relative independence with which Britain prosecuted the very early days of its economic strategy caused such disruption, that the Cabinet quickly resiled from total blockade, and it would not be for another two years until a functional alliance of states could bring about the exhaustion of the Central Powers through a more sophisticated economic campaign.

No economy has since matched the preeminence of Britain's economic position in 1914, nor should it. Any economy today would be unwise to think it can buck this historical trend.

**The shape of the economic deterrent has too often been conceived in solely punitive terms.** Policymakers as early as the 19<sup>th</sup> Century recognised that sanctions on a belligerent worked best when accompanied with economic solidarity and support to the injured state<sup>23</sup>. A young John Maynard Keynes captured this insight when advising the League of Nations' Secretariat, developing its sanctions deterrent in the interwar years: "the more things are thought about the more shall we be inclined to depend upon positive assistance to the injured party as compared with reprisals against the aggressor,"...[because]... "positive measures would be much more impressive when the time came than negative acts which would always run the risk (1) of not being efficacious and (2) of not being easily distinguished from acts of war"<sup>24</sup>. Keynes went on to support ambitious proposals for a 'Convention on Financial Assistance' (see spotlight below). As Mulder's research shows, the Convention was never realised before the Great Depression, but was a central insight which ushered the dramatic shift from the pre-war 'negative sanction' to the post-war 'positive sanctions' of Bretton Woods<sup>25</sup>.

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<sup>21</sup> Lambert, N. *Planning Armageddon: British Economic Warfare and the First World War* (Harvard University Press: 2012) p.181

<sup>22</sup> Ibid, p.138

<sup>23</sup> See the 'Berlin Decree' of November 1806 and the subsequent 'Continental System'

<sup>24</sup> Mulder, N. *The Economic Weapon: The Rise of Sanctions as a Tool of Modern War* (Yale University Press: 2022) p.159

<sup>25</sup> Ibid.



### Spotlight: Convention on Financial Assistance

The Convention on Financial Assistance (CFA) was an unrealised interwar scheme to economically support states that fell victim to aggression, and by its existence, to deter from the aggression happening in the first place. Its proponents included John Maynard Keynes and Sir Henry Strakosch who felt an effective economic deterrent involved a balance through "the closing of foreign markets to the aggressor and the opening of them to its victim"<sup>26</sup>. Above all, the CFA was an effort to integrate the wartime innovations in finance and lending, into a positive economic deterrent.

Since the League of Nations' created its sanctions deterrent to uphold the new international order - Article 16 - many states had emphasised the equal importance of ensuring economic assistance and solidarity. While most attention had been put into making the commitment to economic sanctions credible and implementable, Article 16's third paragraph had also committed that:

*"The Members of the League agree, further, that they will mutually support one another in the financial and economic measures which are taken under this Article, in order to minimise the loss and inconvenience resulting from the above measures, and that they will mutually support one another in resisting any special measures aimed at one of their number by the covenant-breaking State"*

France, together with Poland, supported a Finnish proposal in 1926 for an 'insurance against war' - short term subsidies for arms and long term loan guarantees to sustain small economies under aggression, provided by the League membership. The Finnish proposal coincided with a Belgian-led coalition of states pushing for a more institutionalised version of the same idea, in addition to more far reaching changes (e.g. the preemptive gathering of economic intelligence by the League Secretariat).

As Nicholas Mulder writes into the League's history<sup>27</sup>, its Financial Committee, in response, "outlined a scheme to backstop national public debt in emergency situations. A state that fell victim to aggression would borrow by itself but could strengthen its credit by "associating" it with that of stronger states. The total amount of such an international guarantee for a national loan would be divided into specific tranches based on the economic weight of the guarantors. This jointly held liability would function as a shared financial commitment against aggression, in which 'universal participation would be a powerful moral deterrent'. The Financial Committee's mechanism was meant to bolster distressed states by making the

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<sup>26</sup> Mulder, N. *The Economic Weapon: The Rise of Sanctions as a Tool of Modern War* (Yale University Press: 2022) p.163

<sup>27</sup> Indeed few other scholars have examined this interestingly prescient experiment in the role of positive sanctions, and there is a strong case for further work in this field.

League act as a conduit for private capital while acting as its ultimate guarantor".<sup>28</sup>

Sir Henry Strakosch, the Financial Committee's greatest proponent of the CFA, described what one British newspaper called 'the ridiculous convention for the financing of other people's wars', as quite the opposite: "The Convention for Financial Assistance, on the contrary, is an instrument to prevent the occurrence; and the parties therefore obtain, for a very modest and purely contingent premium, a safeguard against war occurring and damage being done to other nations. As a reward for these obligations the signatories are creating an instrument for the prevention of war more effective and more easy of application than any now possessed by the League. It seems to me to be an immensely better way of bringing the force of the League to bear than by any such schemes as an international army or air force, or by any kind of blockade against the aggressor. It is more spectacular and more practically useful."<sup>29</sup>

Yet more ambitious proposals followed in 1927, but never caught on. An adviser from the British Treasury suggested states "contribute their own sovereign bonds to a special 'sanctions fund' established at a reliable central bank [...], in case of invasion these high-quality assets could be sold for cash or used as collateral for borrowing". The German financier Dr. Carl Melchior went still further, suggesting something not dissimilar to today's European Financial Stability Facility and Mechanism - "a special purpose vehicle that could issue its own debt instrument, to avoid financial market speculation against weaker states"<sup>30</sup>.

The League's original proposal was adopted by the League Assembly in 1930 and by 1931 more than 30 states had signed, but its enactment was tied to the success of an international disarmament treaty which was never achieved, and when the World Disarmament Conference collapsed in 1933, so did hope of the CFA being realised.

Describing modern international financial assistance as a 'positive sanction' would sit uncomfortably with some practitioners today, nevertheless, few could argue with Keynes' original logic that the carrot has played a greater role in preventing aggression and building international stability, than the sanctions stick. While "lend-lease was the most significant economic scheme against aggression ever created"<sup>31</sup>, the

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<sup>28</sup> Mulder, N. *The Economic Weapon: The Rise of Sanctions as a Tool of Modern War* (Yale University Press: 2022) p.161

<sup>29</sup> Strakosch, H. *The Convention on Financial Assistance. International Affairs* (Royal Institute of International Affairs 1931-1939), vol. 10, no. 2, 1931, pp. 208–22

<sup>30</sup> Mulder, N. *The Economic Weapon: The Rise of Sanctions as a Tool of Modern War* (Yale University Press: 2022. p.161

<sup>31</sup> *Ibid*, p.274

original logic of 'twin-deterrence' - binding the operation of sanctions and economic assistance together into a single instrument - has never been attempted post-war.

The Kiel Institute for the World Economy's latest paper on international support for Ukraine<sup>32</sup> notes that compared to previous wars, "international [economic] support for Ukraine has so far been rather limited" when considering the size of donor GDP. Taking the example of the invasion of Kuwait in 1991, many G7 countries contributed at least twice if not three-times as much assistance (as a percentage of GDP) compared to Ukraine today. The comparison between fiscal commitments for energy supply shocks, covid and the eurozone crisis, and Ukraine aid, is yet more challenging for western capitals. Too little a link has been made between sanctions on Russia, near-term support for the Ukrainian economy to repel its aggressor, and the greater deterrence of showing that such aggression will only ensure the injured state's long term prosperity.

A remaking of the twin effect of the 'negative' and 'positive' sanction could be fundamental to any modern economic deterrent, and would increase its potency.

**The existence of a credible economic deterrent needs balancing against its incentive towards autarky, especially in global economic downturns.** Belligerents' fear of a powerful and wide-ranging economic tool is well documented, from Mussolini's '*Autarchia*' programme, to Hitler's '*Blockadefestigkeit*' ('blockade resilience'), to Japan's pursuit of 'strategic autarky' throughout the 1930s<sup>33</sup>. But as the economic historian Elizabeth Boody Schumpeter put it at the time, "the relationship between economic pressure, the threat of sanctions, a policy of autarky, and territorial aggression [was] a very involved one, because they act upon one another with cumulative force"<sup>34</sup>. Her contemporary Sir Norman Angell was more direct: "there might result between nations a sort of competition for self-sufficingness which, ill directed, might conceivably end in buttressing that immoral nationalism that was one of the causes of the war"<sup>35</sup>. It could be said the same characteristics are in evidence today between the sanctions-busting states in Russia, Iran and DPRK. But just as striking is the resurgence of a broader political trend towards self-sufficiency across the major powers of the world, as the use of more serious economic tools in foreign relations are normalised.

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<sup>32</sup> Trebesch, C. et al. *The Ukraine Support Tracker: Which countries help Ukraine and how?* Kiel Working Papers, 2218 (Kiel Institute for the World Economy: 2023). See Section 6 of the latest report for more historical comparisons, based on Sarkees & Wayman, 2010.

<sup>33</sup> Mulder, N. *The Economic Weapon: The Rise of Sanctions as a Tool of Modern War* (Yale University Press: 2022).

<sup>34</sup> *Ibid*, p.257

<sup>35</sup> *Ibid*, p.75

Yet policy-makers should remember that it was the relatively laissez-faire approach to trade that Britain had adopted pre-war (albeit on its imperialistic terms), and the US adopted post-war, that gave rise to the powerful leverage both superpowers could later instrumentalise in the application of sanctions. Just consider US Secretary of State George Shultz's renunciation of 'light-switch diplomacy' in 1982 - the "belief in our government that individual trades can be turned on and off like a light switch to induce changes in the domestic and foreign policies of a host government. As a result, the position of U.S. goods in world markets is eroding as our trading partners increasingly see evidence that we cannot be counted on as a reliable supplier"<sup>36</sup>. While there are other reasons<sup>37</sup>, it could be said that it was this approach which, until the 2010s, largely accounted for the continued rise in US dominance of the international financial system, even as BRICS rivals caught up GDP terms; much like Britain had maintained in the early 20<sup>th</sup> Century, even as Imperial Germany matched its GDP. Yesterday's sterling and telegraphy are today's dollar and SWIFT.

So just as policy makers need to consider this balance between sanctions use and their incentive to reduce dependency on the very channels which give them their potency, they must also consider a more direct trade off. The IMF's recent assessment of the "potential economic ramifications of a policy-driven reversal of global economic integration, or geoeconomic fragmentation"<sup>38</sup> reveal the potential cost of a resurgence of self-sufficiency, including in payment systems and trade currencies. While such models are inherently uncertain, the IMF assesses that "the cost to global output from trade fragmentation could range from 0.2 percent (in a limited fragmentation / low-cost adjustment scenario) to up to 7 percent of GDP (in a severe fragmentation / high-cost adjustment scenario); with the addition of technological decoupling, the loss in output could reach 8 to 12 percent in some countries"<sup>39</sup>.

**Last and often least heeded, the mixed history of economic deterrence should remind policy-makers of its limitations, when pursued without integration into a wider set of tools.** As Mulder concluded of the interwar years, "the construction of sanctions was therefore not just an effort to devise an effective instrument, but also a project to fashion a responsive object"<sup>40</sup>. Policymakers in ECOWAS capitals are quickly becoming

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<sup>36</sup> United Press International Archives. *Secretary of State George Shultz called the government's use of trade as an instrument of foreign policy 'light-switch diplomacy'*. (August 30 1982).

<sup>37</sup> The shift in focus to the 'positive sanction', and lack of economic integration between the US and USSR.

<sup>38</sup> IMF Staff Discussion Note. *Geoeconomic Fragmentation and the Future of Multilateralism* (January 2023). p4

<sup>39</sup> Ibid.

<sup>40</sup> Mulder, N. *The Economic Weapon: The Rise of Sanctions as a Tool of Modern War* (Yale University Press: 2022. p130

familiar with this fact, as the severity of their overnight blockade of Niger's electricity and wider imports have done little to dissuade its coup leaders. It is no good disengaging with this question of whether and how economic pressure can actually be applied to belligerents, and to do so has often meant the weight of expectation exceeds their possible impact. The inter-war sanctions committee in Britain routinely faced this challenge in its advice to the Cabinet. What is perhaps most striking about this body's work is the regularity with which it advised that sanctions would not be an effective means of changing the calculus of the major players in the various flashpoints of the 1920s, from Hong Kong to Turkey<sup>41</sup>, despite Britain's considerable influence and continuing investment in these capabilities. The fact that economic sanctions are often the most visible measure of a state's response in modern times compounds this problem in how sanctions efficacy is assessed. Of course there are cases where sanctions relief may indeed have proved decisive - the JCPOA being among them - but as history has consistently shown, many regimes have also shown themselves capable of allowing their people to endure significant economic hardship.

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If nothing else, the lesson of history is that the political economy of economic deterrence is complex and at times contradictory. Despite being an important new force behind international relations, the first world war occurred at the height of globalisation; the second occurred at the height of de-globalisation. Competing theories - that global economic integration would be a safeguard from major conflict; or that the pursuit of autarky would improve nations' security - were both proven wrong.

## Policy options

As has been shown, sanctions are a reality of modern international relations but have evolved significantly in the past two decades, in many regions, even before the unprecedented response to Russia's illegal invasion of Ukraine. This has spurred a significant rise in national and supra-national legislation and wider procedures governing the use of sanctions, and a lively legal debate on the treatment of sanctioned private and state assets. There are well documented geopolitical factors that account for the current sanctions peak<sup>42</sup>, but what perhaps distinguishes these

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<sup>41</sup> Babij, O. *The Advisory Committee on Trade Questions in Time of War*. *The Northern Mariner/Le Marin du nord*, VII, No. 3, 1-10 (July 1997)

<sup>42</sup> See Hufbauer and Jung. *Economic Sanctions in the twenty-first Century*. Research Handbook on Economic Sanctions, Chapter 2 (Elgar Publishing: 2021)

tools is that their governance in the international decentralised legal order<sup>43</sup> has remained largely unchanged, since they remain the nominal preserve of the permanent members of the Security Council ('P5'). Arguably no other state power has remained so untouched by international agreements or cooperation on their use, since 1945; not even the use of nuclear weapons. Two reasons chiefly account for this: power politics; and in many ways, the fact that sanctions are shape-shifters. Yesterday's trade tariff under WTO exemptions can become tomorrow's trade sanction, if applied differently (e.g. short, sharp and in company). If anything, sanctions have a problem not so much in law, but in practice.

So while certain conventions have grown around their use, in particular around the importance of humanitarian considerations, there remains significant variability in how sanctions are applied, in or outside the auspices of the UN, given all are implemented through domestic legislation. There is currently an absence of commonly accepted international criteria for: sanctions listing, the process for decision making; what constitutes an 'entity' or 'control'; or an explicit requirement for sanctions to have humanitarian exemptions by design, even though that is increasingly the convention. While the drafters of the UN Charter had the wisdom to envisage the need to manage the economic impact of conflicts and the effect of sanctions in Article 50<sup>44</sup> - *special assistance to 'third party states'* - the consultative process therein has been rarely used or developed effectively. As Carver and Hulsmann argue: "Experience of successive sanctions targeted against Southern Rhodesia, Iraq and FRY demonstrate that Article 50 consultations have not only taken place, but have delivered real benefit to some countries most acutely affected by those sanctions. There is clearly room to improve the functioning of Article 50 and a number of significant steps have already been taken in this direction"<sup>45</sup>.

**The question therefore arises as to what should be done if sanctions are here to stay in such numbers, complexity and diversity, at a time when there is also an urgent international need to re-establish the most fundamental international norms.**

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<sup>43</sup> Miron, A and Tzanakopoulos, A. *Unilateral Coercive Measures and International Law*. The Left in the European Parliament 2022. (2021)

<sup>44</sup> Article 50: "If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems."

<sup>45</sup> Carver, J., & Hulsmann, J. (2000). *The Role of Article 50 of the UN Charter in the Search for International Peace and Security*. *International & Comparative Law Quarterly*, 49(3), 528-557.



## The case for reform and an 'International Stability Mechanism'

A new global compact is needed between major sanctions actors and the wider membership of the General Assembly, to restore international stability and deter acts of aggression through the responsible use of sanctions - such a compact could be framed as an 'international stability mechanism' (ISM).

It could involve a commitment from major sanctions actors to improve both the global governance and implementation of sanctions, addressing issues routinely raised in the General Assembly and elsewhere. In turn, a broad-based commitment of UN members could support a tightly-focused but universal backstop to the traditional international peace and security architecture, using key jurisdictions' role in the international financial system to ensure that, as G7 leaders put it in 2022, a belligerent "cannot remain a member in good standing of the global economic and political system as long as it flagrantly violates international norms at the cost of others"<sup>46</sup> (as the General Assembly has already overwhelmingly determined that Russia has done).

Such a mechanism would start with a commitment to develop, for the first time:

- **Required common standards and best practice for all sanctions listings**, including the process for designation, identification of 'entities' and 'control', and basic standards for domestic judicial oversight.
- **A universal commitment to humanitarian exemptions in all sanctions**, and the establishment of best practice for doing so, working with IOs, NGOs and business. This could build on existing models like the 'Tri-Sector Working Group' and UN Security Council Resolution 2664 (2022)<sup>47</sup>, the EU's 'letters of comfort', and the UN Secretary General's good offices around Ukrainian grain.
- **A financial assistance forum in the spirit of Article 50 of the UN Charter** for states "confronted with special economic problems" arising through an act of aggression or the response to it, bringing together IFIs and other donors to consider such situations. This could be a novel forum, or hosted within an IFI.
- **A legal committee to consider common approaches to issues like the seizure of assets for reconstruction, and the interoperability of domestic legal frameworks** so designations can be applied more effectively and cleanly across jurisdictions, and assist firms in compliance. In time, this could be tied to the General Assembly's

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<sup>46</sup> Annex to G7 Leaders' Statement on Support for Ukraine - *Supporting Ukraine Through Responsible Sanctions Against Russia* (Elmau, 27 June 2022).

<sup>47</sup> The UN Security Council adopted resolution 2664 on 9 December 2022 to provide a "humanitarian carve-out" — a standing humanitarian exemption — to the asset freeze measures imposed by United Nations sanctions regimes: <https://press.un.org/en/2022/sc15134.doc.htm>

creation of a '**Register to Document Damages**'<sup>48</sup>, modelled on the 'Global Forum for Asset Recovery' to assist in the use and return of frozen assets.

- **Support institutional twinning, training and capacity building between sanctions authorities**, improving cooperation between regional sanctions actors like the EU, AU and ECOWAS.
- **Consider wider issues around sanctions evasion as appropriate**, like the transparency of company ownership information to tackle 'asset cloaking'.

Such functions would not be dissimilar to the early days of the 'Financial Action Task Force' in the 1990s, where similar common standards and means of cooperation had been lacking to tackle terrorist financing and money laundering.

In turn, recognising the improved quality and responsibility with which sanctions are applied, these reforms could be complemented with a commitment to an international stability mechanism by the widest possible UN membership, including a sanctions deterrent '*to restore international stability and deter acts of aggression or the use of force against the territorial integrity or political independence of a state*'. It would be distinguished by four foundational principles:

- **Tightly bound in purpose**: established to deter only the most fundamental breaches of international norms, in particular the sovereignty and territorial integrity of states, and self-determination of peoples.
- **Broad-based**: drawing legitimacy not only from the improved standards with which the economic deterrent would be applied (as above), but a broad constituency of supporters, whether in advance by association with the mechanism, and/or through a *Uniting for Peace Resolution* (see below) at the General Assembly.
- **Carrot and stick**: recognising that punitive measures alone will never suffice, and that any victim of aggression would be met with credible economic assistance in the short-to-long term as required.
- **Time-limited**: a commitment to a backstop to existing Article 41 sanctions, and the cooperation and procedure that grows around it, need only exist until such time as the Security Council is able to discharge its primary responsibilities in future.

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<sup>48</sup> U.N. GAOR, 11th Em Spec Sess., 15th & 16th mtg., U.N. Doc GA/12470 (14 November 2022) - *General Assembly Adopts Text Recommending Creation of Register to Document Damages Caused by Russian Federation Aggression against Ukraine, Resuming Emergency Special Session*.

### Spotlight: General Assembly resolution 377 (V): 'Uniting for Peace' Resolution (1950)

Commonly known as "Uniting for Peace", the Resolution empowers the General Assembly to consider international peace and security matters when the Security Council is unable to act due to a lack of unanimity among its five permanent members (P5).

In 1950 the Security Council was deadlocked, unable to protect the Republic of Korea from the aggression launched by North Korea's military because of the USSR's veto. To break the impasse the US Secretary of State Dean Acheson persuaded "the General Assembly that it should claim for itself a subsidiary responsibility with regard to international peace and security, as enunciated by Article 14 of the Charter. The result of these efforts was resolution 377 A (V)"<sup>49</sup> with the title 'Uniting for Peace'. It resolved that:

*"If the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security. If not in session at the time, the General Assembly shall therefore meet in emergency special session within twenty-four hours of the request. Such emergency special session may be called if requested by the Security Council on the vote of any seven members [nine since 1965], or by a majority of the Members of the United Nations."*

Under Articles 10-14 of the UN Charter all resolutions and decisions of the General Assembly are recommendations and not binding, unlike some Security Council resolutions. While definitions vary, Resolution 377(V) has been used 10 or so times between 1950 and 1997 - some initiated from within the Council; some the Assembly - with every member of the P5 being put on the spot at one time or another. Then in response to Russia's invasion of Ukraine in 2022, the Security Council invoked the Resolution once more, calling for an 'Emergency Special Session of the General Assembly on Ukraine Crisis', Adopting Resolution 2623 (2022) by 11 Votes in Favour, 1 Against, 3 Abstentions. The special session has since met throughout the year, and passed further resolutions overwhelmingly condemning Russia's illegal invasion.

Scholars cite various reasons for the ebb and flow of the resolution's use, between the

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<sup>49</sup> UN Office of Legal Affairs, Introductory Note by Tomuschat, C. *Uniting for Peace General Assembly resolution 377 (V)* New York, 3 November 1950. (2008).

P5's objection that it disturbs the constitutional balance between the UN's two primary organs, particularly with respect to armed force; or the growing size and influence of the 'G77' and its growing independence from the P5. But as many point out, it was a P5 member that introduced the resolution with the support of others, where ultimately, "each of their respective governments was prepared to make that sacrifice in the name of a functional system of collective security"<sup>50</sup>.

It is these characteristics which may ensure the best achievable economic deterrent, and play a role towards a functional system of collective security once more.

The idea that an economic deterrent be created to re-cement international taboos is not as unrealistic as some commentary on the G77's posture towards Russia's action would suppose - just over 3% of UN members voted against the General Assembly Resolution calling for an end to Russia's attempted annexation<sup>51</sup>; the General Assembly has also, by an even larger majority, ignored Russian claims to the four Ukrainian regions where sham referendums were held, and called for a reversal of their "attempted illegal annexation"<sup>52</sup>; it has suspended Russia from the Human Rights Council<sup>53</sup>; and the ICJ has ordered Russia to immediately suspend its action<sup>54</sup>. In fact many of the reforms and functions inherent to an LSM could, in due course, be integrated into the UN system as a whole, when consensus on the Security Council allows.

### Other models of deterrence

There are also those that argue that economic deterrence could be used to reinvigorate the defence of democracy with newfound collective trade power, akin to a G7 version of the anti-coercion tool recently agreed by the EU. Former NATO Secretary General Rasmussen calls it an 'Economic Article 5', and cites the examples of Lithuania and Australia's economic coercion by China as situations such a deterrent could prevent. While the existence of a broader coercion mechanism is not mutually

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<sup>50</sup> Andrew J. Carswell, *Unblocking the UN Security Council: The Uniting for Peace Resolution*, *Journal of Conflict and Security Law*, Volume 18, Issue 3, Winter 2013, Pages 453–480

<sup>51</sup> The UN General Assembly adopted Resolution A/ES-11/L.7 on 13 February 2023 at its 11<sup>th</sup> emergency special session: <https://news.un.org/en/story/2023/02/1133847>

<sup>52</sup> The UN General Assembly adopted Resolution A/ES-11/L.5 on 12 October 2022: <https://news.un.org/en/story/2022/10/1129492>

<sup>53</sup> The UN General Assembly adopted Resolution A/ES-11/L.4 on 7 April 2022: <https://news.un.org/en/story/2022/04/1115782>

<sup>54</sup> On 16 March 2022 the ICJ ruled that Russia "shall immediately suspend the military operations that it commenced on 24 February" (*Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*):

<https://www.icj-cij.org/public/files/case-related/182/182-20220316-SUM-01-00-EN.pdf>

exclusive with an 'international stability mechanism', or indeed the focus of this paper, it is important that the economic tools put at its disposal are proportionate to their use. The measures outlined in the EU's proposal and its own distinction between anti-coercion tools, and harder sanctions, is a good one. It is in everyone's interests that the boundary between serious economic measures and wider trade practices not be blurred further, which could further risk undermining their legitimacy.

## Conclusion

Ultimately, economic statecraft has often been premised on the logic of interdependence and the logic of deterrence. A European minister recently set out the European conception of economic statecraft - in the European mind, "interdependency is intimately related to the logic of peace"<sup>55</sup>. For more than a century the debate over the merits of interdependence and deterrence has continued, with a mixed evidence base. While the remarkable success of post-war European integration certainly supports the minister, the prediction of the great American strategist of his day, Alfred Thayer Mahan, speaking a decade before the first world war, should at least qualify this optimism:

*"The unmolested course of commerce, reacting upon itself, has contributed to its own rapid development [...]. This, with the vast increase in rapidity of communications, has multiplied and strengthened the bonds knitting the interests of nations to one another, till the whole now forms an articulated system, not only of prodigious size and activity, but of an excessive sensitiveness, unequalled in former ages. The preservation of commercial and financial interests constitutes now a political consideration of the first importance, making for peace and deterring from war"<sup>56</sup>.*

If interdependency should fail, and policy makers come to rely on a more explicit deterrent, they should at least heed the advice of the father of modern sanctions Robert Cecil, British Minister of Blockade, reflecting on his creation in the first world war:

*"I always took the view in the late war that the blockade by itself would never win. We had a most careful examination [...] and although we were quite satisfied that the blockade produced a great effect, I felt that by itself it could never win unless, as ultimately did take place, a great military disaster struck*

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<sup>55</sup> Laurence Boone, French Minister of State for Europe, speaking at the Peterson Institute for International Economics on 'A European approach to economic statecraft'. 28/03/2023.

<sup>56</sup> Lambert, Nicholas A.. Planning Armageddon : British Economic Warfare and the First World War, Harvard University Press, 2012. p.19.

*Germany. I do not want to underrate the work that was done by the blockade. It is in my view an essential part of our war machinery, but it will never be enough by itself*<sup>57</sup>.

While it is legitimate to think again about how sanctions might play an essential part of the evolving international security order, we would be right to heed Cecil's advice that they may never be enough by itself.

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<sup>57</sup> Lord Cecil of Chelwood, House of Lords Debate on Economic Warfare. Wednesday, 17th January, 1940.



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