

UN Sanctions and Third Party State Victim: A Case Study of UN Sanctions on Iraq and Its Impact on India

*Dissertation submitted to the Jawaharlal Nehru University
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Master of Philosophy

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to
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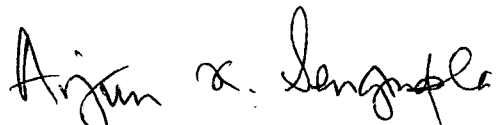
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We recommend that this dissertation may be placed before the examiners for evaluation.


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Introduction

The early years of 1990s witnessed certain significant developments in the international arena, reverberations of which were far-reaching. The International community found itself in an astoundingly favourable situation that was not beset with super powers rivalry. The end of the cold war, which started with the withdrawal of Soviet troops from Afghanistan and culminated in the disintegration of former USSR opened up new vistas for international organisations, especially for the UN, to play an effective role in the maintenance of international peace and security as envisaged by the architects of the UN charter. But certain other developments - rise of ethnonationalism as occurred in Bosnia: Rwanda: Sudan; outbreak of intra-state conflicts in Cambodia: Somalia; Angola; tremendous growth in international terrorism both in form and intensity, posed challenges to the UN. The complex nature of such events and the UN's inexperience in dealing with them made them more difficult to tackle. Besides all this, liberalisation and globalisation in economic front and the search for democratization in the pol sphere, emerged as two dominant trends in the decade of 1990s, which has had their impact on moulding international scenario.

Amidst the contrasting happenings, the UN faced certain dilemma. On the one hand, it became free from cold war politics on the other hand, it had to face problems hitherto unknown and of peculiar nature. Fortunately, at that juncture, we witnessed international political mood swung towards support for a strong United Nations. This momentum, combined with the reality of a Security Council no longer encumbered by cold war vetoes enabled the UN to take certain bold initiatives. One of such areas where the UN displayed its newly acquired vitality and spirit is the application of Articles pertaining to the imposition of sanctions.

Though the provisions were there in the charter, they by and large remained dormant or unused. In the first 45 years of its existence, the United Nations imposed sanctions in just two cases (one against Southern Rhodesia: and the other against South Africa). But in 1990s, the provisions are frequently used. Since its comprehensive sanctions against Iraq, it has been used against Yugoslavia: Serbia and Montenegro: Libya, Liberia, Haiti, Angola, Somalia, Sudan, Rwanda, Sierra, Leone.

The applications of the provisions relating to sanctions have brought into focus various issues. Some of them are related to decision-making while some other are discovered or recovered in the process of enforcement. One such issue is "the issue of third states". The experiences have shown that the imposition of mandatory sanctions affect not merely

the target states but also certain non-target states which are neighbours or major economic partners of the target country. These non-target states are generally termed as third states. But there is no unanimity about “the concept of third state”. Actually the concept has yet to evolve fully. Margaret Doxey’s view gives us the impression that all non-target states that suffer losses in implementing sanctions are not automatically third states. She says, the non-target states, which are not participants in the decision-making process of the UN but due to mandatory nature of Security Council decision have to comply with them, even if they bring major domestic problems in their wake are third party states. But this definition has its own weaknesses. Viewing it from another perspective it is argued by some that states that do not actively join the sanctioning front but abide by the Security Council’s decisions, implement sanctions and suffer serious special economic problems are third states. All the views will be analysed in details in the study.

As the third states’ suffer due to their commitment to International community and the ‘concept of burden-sharing’ is inherent in sanctions principles, it is injustice to expect third states to bear the whole burden on their own. So, it is necessary to find out a way to lessen or assuage the sufferings incurred by their states because failing such action will be a

disposition to non-implementation and even defection from sanctionist front.

The purpose of the study will be to examine the point in the light of existing UN provisions; its response in past experiences and various proposals put forward. If sanctions are to be applied by the Security Council against any recalcitrant govts/regime in the days to come, the issue will come to the forefront immediately. So it is essential to devise a framework for handling the issue before the next case arises. Herein lies the urgency and relevance of the topic.

In the study, the cases of mandatory, comprehensive sanctions namely those against Southern Rhodesia; Iraq and Serbia-Montenegro are of special significance, because only in comprehensive sanctions, the issue of third party state emerges in large scale. While explaining past experiences of the UN to deal with the issue, all these cases will be examined. But Iraq case will be the focus. A case study will be done, "UN sanctions on Iraq and its impact on India". Iraq case is selected because it is one of the most comprehensive sanctions the UN has ever imposed. Moreover, it is the case which brought the issue to the forefront. Twenty-one states submitted memorandum explaining special economic problems being faced by them as a result of implementing the Security Council decisions under chapter VII of the UN charter. India is taken as the case of

third party state victim. The reason to choose India is that relationships that existed between India and Iraq were multidimensional. India depended considerably upon Iraq and Kuwait for petroleum: a large number of Indian migrant workers worked there: and their remittances constituted a good percentage of India's foreign exchange earnings. So analysis will definitely provide an insight into the various dimensions of the issue.

Overall the purpose of the case study will be to show the dimensions of the problem; sources of hardship: and the variety of costs which third party states may encounter as a result of implementing sanctions.

The study for the sake of proper handling of the issue, has been divided into following chapters:

Chapter I: Various aspects of sanctions: A General Framework.

Chapter II: The issue of third states: concept and evolution.

Chapter III: UN sanctions on Iraq and its impact on India.

Chapter IV: Response Loopholes; proposals and suggestions put forward so far in this regard.

Chapter I : Focuses upon the definition of sanctions; nature of sanctions- whether they are restorative or retributive; spectrum of sanctions-economic, diplomatic, military. Another aspect is "Sanctions and international

organisation”, and it is seen, how sanctions imposed by international organisation is different from unilateral sanctions. An inquiry is made into various provisions mentioned in the League of Nations covenant and UN Charter regarding sanctions and their enforcement.

Chapter II : An attempt will be made to explain “the concept of third state” - it will also be seen what provisions the UN charter have for third states. Various experiences, international organisations, namely the league of nations and the United Nations have had in the field of sanctions will be examined in the context of third states.

Chapter III : The case study, taking India as a third party state in case of sanctions on Iraq will emphasis in examining what are the sources of hardships: what factors determine the severity of adverse effects: A detailed analysis of effects - at the personnel, regional as well as at national level is made.

Fourth Chapter : Focuses upon the response of the UN: member states, international financial institutions, Regional Development Banks to minimise or assuage the losses of third states in the past experiences. An effort is made to find out the loopholes in the process. Ultimately examining various proposals and suggestion put forward so far to minimise adverse effects or for offering assistance effectively, is seen how they can be resolved or lessen at least partially.

As far as sources are concerned, the study will be mainly based on primary sources and some prominent works in this field. The General Assembly Resolutions: Security Council decisions: Report of various sanctions committees and some other UN Documents. For the case study; different UN publications and the Govt. of India report - like report of various ministries have been consulted with.

It is hoped that the present study will throw some light on the issue of third states, which has remained a neglected area.

Chapter I

Various Aspects of Sanctions: A General Framework

The idea of sanctions is probably as old as the earliest organization of human society. Ever since human beings started living in an organized way, there developed certain norms and principles that were expected to be followed by each member of the society. Society evolved certain mechanism to induce members to conform and also to prevent deviations. If they occur, they are dealt with punishment. The same concept evolved in the international arena with the growth of an international community. Here too, states are expected to follow certain rules and regulations (international laws) and their violation invites penalty. Sanctions as an instrument of pressure in the hands of the international community for use against a transgressor state were institutionalized in the Covenant of the League of Nations. The UN charter also incorporated provisions dealing with sanctions.

In the chapter, an attempt will be made to provide a definition of sanctions analyzing various existing definitions of sanctions. Nature of sanctions; its spectrum sanctions under international organizations and the problems of enforcement and implementation will also be examined.

Sanctions has been defined by scholars from various points of view. A.L. Epstein defines sanctions as “a promise of reward for fulfillment of the norms or behavior that are socially recognized and accepted or in liability to suffer the consequences that attend their breach”.¹

So for Epstein, sanctions are conformity - defending and conformity-inducing modalities upholding a particular and value-system and discouraging a deviation from the norm. In other words, compliance and deterrence are the objectives of sanctions. Epstein's definition though quite correct in explaining the objectives of sanctions, it is questionable so far as the means it advocates for achieving those objectives. Specially when it is seen from the perspective of international relations. This definition states, promise of reward as a mean of inducing conformity. Actually if the issue is looked at from a sociological point of view, Epstein was not wrong. Because in society, promise of reward is used to induce conformity. Some scholars like C. Lloyd Brown argue its existence in international community also. Brown has termed it as 'positive sanction'² and interpreted in the context of granting aid, specially by developed countries to the poor developing countries. He argued, “the offer of aid as opposed to

¹ A.L. Epstein, “Sanctions”, in *International Encyclopedia of the Social Sciences*, New York, 1968, vol.14, p.1.

² C. Lloyd Brown - *John Multilateral Sanctions In International Law. A Comparative Analysis*; New York, Washington, London, 1975, pp.28.

withholding aid might be termed as a positive sanctions - an incentive to comply with benefactor's wishes".³ He cited the example of Dominican situation in 1961 when US offered massive amount of assistance and he claimed it acted, as an inducement to a change in Dominican Govt. policy. But usually sanctions is not accepted as a conformity-inducing modality achieved through promise of reward. Even in cases where sanctions seeks to induce conformity it is tried to be achieved taking punitive actions against violators.

So in international relations, sanctions must be mainly conformity-defending instruments relating to behavior which is expected by custom or required by law. In the Social context, they may be positive or negative constituting reward or punishment in a legal system, they are negative specific penalty which the designated authorities will apply to law-breakers.⁴

Leland M. Goodrich's states, "A sanctions can have the objective of suppressing and terminating a particular form of desirable behavior and the objective of deterring or discouraging such behavior in future."⁵ Though the definition implies deterrence or compliance as objectives it has not

³ Ibid., 2, pp.28.

⁴ Margaret Doxey; *Economic Sanctions and International Enforcement*. London, Oxford, New York, 1971, p.1.

⁵ Leland M. Goodrich, "Sanctions International", In *International Encyclopedia of the Social Sciences*. P.8. vol.14. p.5.

mentioned the means taken to achieve the objectives. However, the use of word “suppressing’ which bears a negative connotation means he is not for positive sanction. Royal Institute of International Affairs report defined sanctions as “actions taken by the members of the international community against an infringement actual or threatened of the law”.⁶

Thus it is seen, sanctions in international relations bears a negative connotation, it means some kind of punishment or penalty for the violation of laws and norms.

Moreover, there are diverse views regarding the purpose of punishment.

The advocates of the classical theory view sanctions as a retributive instrument. It means punishment should be given to the law-breakers just to punish. It ignores the compliance and deterrence purposes for inflicting punishment on law violators. But a sanction that solely aims at penalizing a regime doesn’t serve any purpose.⁷

So punishment must be purposive so as to bring about a return to the status quo ante. Through sanctions, an indication is given that similar

⁶ Royal Institute of International Affairs, (RIIA) Report: International Sanctions: A Report, London 1938.

⁷ Richard Nossal, Eco. Sanctions in the League of Nations and the United Nations in David Cortright and George Lopez (ed.) Economic Sanctions: Panacea or Peace Building in “a Post-cold War Period. (Boulder Co. 1995).

action in future by the state or by any other state would not be accepted. So it serves deterrence purpose. Moreover, sanctions seek to change target state behavior by depriving it of something it values in essence, forcing it to abandon the behavior offensive to prescribe laws and norms.

Analyzing all these aspects, the definition advanced by M.S. Daoudi and M.S. Dajani seems most comprehensive and acceptable. They define sanctions as “penalty attached to transgression and breach of international law’ in the form of punitive actions initiated against one or more states for violating a universally approved charter, as inducement to follow or refrain from following that particular course of conduct and conform with international law.⁸ They accept sanctions as a punitive action but the not for the sake of punishment only, but for the achievement of deterrence and compliance. It has made their definition complete.

Efficacy of Sanctions

In the Twentieth century, sanctions have emerged as an alternative to war as a means of peaceful settlement of disputes, averting the horrible and destructive consequences of outright war. The League Covenant, signed in the Paris Peace Conference (1919), for the first time institutionalized the concept of sanctions. In the 19th century European

⁸ M.S., Daoudi And M.S. Dajani. Economic Sanctions: Ideals and experience; Bostaon; 1983, pp.8.

powers resorted to economic warfare like blockade. Woodrow Wilson, the former President of the US and one of the architects of the League Covenant, was highly optimistic about the efficacy of sanctions and argued eloquently for the utility of sanctions as an alternative to war.

He states,

“A nation that is boycotted is a nation that is in sight of surrender. Applying this economic peaceful event deadly remedy and there will be no need for force. It is a terrible remedy. It does not cost a life, outside the nation boycotted but it brings pressure upon the nation which in any judgment, no modern nation could resist”.⁹

At about the same time, in a report by the US committee on economic sanctions issued after the world war first, then US Secretary of state, John Dulles opposed boycotts on the ground that they tended to harm the innocent.¹⁰ He proposed confining sanctions to arm embargo and other specific steps that would embarrass the target state without imposing under hardships and inequities.

Though efficacy of sanctions was sometimes doubted, the euphoria developed after the 1st world war remained to some extent. The test time

⁹ Cited in Barry e. Carter, *International Economic Sanctions: Improving the haphazard US Legal Reime*, London 1988, p.9.

¹⁰ Cited in Patrick Clawson, “Sanctions as punishment enforcement and produce to further action, *Ethics and International Affairs*, vol.7 1993. p.20.

for international economic sanctions came in 1935 when Abyssinia (Ethiopia) was the victim of Italian aggression. The 1935 controversy highlighted an aspect of sanctions. It refuted the view that sanctions offered an alternative method to the use of force to restrain aggression.

The UN charter incorporated provisions relating to the application of sanction, but it followed a realistic approach and not so optimistic about its efficacy.

In the post-second world war period sanctions attracted the attention of scholars only after mid - 1960s. They usually held that sanctions were not as effective as military forces. The writing of Johan Galtung, Margaret Doxey: Klaus Knorr reflected the view.¹¹ But in the mid - 1980s, a group of scholars emerged who challenged the earlier pessimism on the utility of economic sanctions. They accept the limitations of sanctions but still hold that sanctions are an efficient instrument for achieving important political goals. The most important study on this line was done by Gary Hufbauer. Jeffrey Schott and Kimberly Ann Elliott.¹² Scholars of the 1990s argue

¹¹ Johan Galtung "On the effects of International Economic Sanctions: with Examples from the case of Rhodesia", *World Politics*, vol.19 no.3 (April 1967) pp.378-416; Margaret P. Doxey. *Economic Sanctions and International enforcement*. New York 1971; Klaus Knorr, *The Power of Nations; The Political Economy of International Relations*. New York, 1975.

¹² Garry Clyde Hufbauer, Jeffrey Jscott: Kimberly Elicit. *Economic Sanctions Reconsidered: History and current policy*. Washington 1985.

that the rise of international co-operation after the cold war may make sanctions even more effective.¹³

Thus is seen, in the post world war II period. Johan Galtung's study (1967) was one of the pioneering studies. Galtung defined sanctions as "actions initiated by one or more international actors (the senders) against one or more others (the receivers) with either or both of two purposes: to punish the receivers by depriving them of some value and/or to make the receivers comply with certain norms the senders deem important".¹⁴ Though he analyzed both punishment and; compliance (through negative as well as positive measures) as goals of sanctions, he concentrated on compliance through negative measures and disregarded the punishment aspect.¹⁵

Galtung says that economic sanctions like military warfare aims at political disintegration of the enemy so that he gives up the pursuit of his goals. The method used is value deprivation. The naive theory believes that "the more value deprivation, the more political disintegration". The idea is that there is a limit to how much value deprivation the system can stand

¹³ Like Lisa Martin, *Coercive co-operation : Explaining multilateral Economic Sanctions*. Princeton. 1992.

¹⁴ Johan Galtung, on the effects of International Economic sanction: with examples from the case of Rhodesia. *World Politics* vol.19 No.3. April 1967. p.379

¹⁵ *Ibid.* 14, p.381.

and once the threshold is crossed, political. Disintegration occurs which ultimately leads to surrender or willingness to negotiate.

But Galtung criticised the naive theory on the ground that it ignored the adaptive capacity of the receivers. Galtung viewed target society as an organism with a certain self maintaining potential.¹⁶ He demonstrated it with examples from Rhodesian society.¹⁷ Because of such adaptation, the 'upper limit' that can be tolerated recedes as the value - deprivation progresses.

Value deprivation leads to political disintegration 'as advocated by naive theory is refuted by Galtung. Galtung argues that the ruling elites generally project sanctions regime as an attack upon their country and it is the masses that suffered the hardships. Thus examining the sanctions from the target's perspective, Galtung asserts that domestic population rallies behind their leaders in reaction which they perceive as foreign meddling. Thus the security of the sanctions to a point will only increase the political. Integration within the target, solidifying the leader's resistance to Galtung's argument.¹⁸

¹⁶ Ibid. 14. p.409.

¹⁷ for details see Ibid.14, p.394-395.

¹⁸ A Cooper Drury. Revisiting Economic Sanctions Reconsidered. Journal of Peace Research, vol.35, no..4, July 1998, p.499

The Galtung painted a pessimistic picture about the efficacy of sanctions when he concluded "The goals of the system may not only be fail to achieve their goals, but may even contribute to exactly the opposite of what they hoped for".¹⁹

Like Galtung, Klaus Knorr also questioned the efficacy of collective economic sanctions. He says in principle collective economic sanctions should be more effective than unilateral sanctions but in his opinion in practice, they have proved abortive. He cited the example of Italy's attack on Ethiopia and pointed out how insufficient international compliance made the deprivation inflicted on Italy too mild to prove decisive. In the Rhodesian case, too, he found the wall of economic sanctions leaky.

Knorr pointed out three reasons for the ineffectiveness of collective economic sanctions:²⁰

- (a) Some states are apt not to share or even to oppose the goal for which sanctions are applied by others.
- (b) Sometimes political or economic costs of imposing sanctions may be too high to afford for major trading partners or neighbours.

¹⁹ Ibid. 14, p.409

²⁰ Klaus Knorr. *The power of Nations: Political Economy of International Relations*. (New York, 1975).

- (c) the countries with free enterprise may find it difficult to stop illicit trading.

The pessimism that is revealed in their views can not be accepted as wholly true. No doubt the target state/states adapts itself/themselves to the \changed environment arising out of sanction. But there is limit to it and counter-strategies against sanctions (adaptation to sacrifice restructuring the economy to absorb the shock; and smuggling) mentioned by Galtung²¹ can not be adopted within a short time. The Rhodesian case shows that from £R. 164 million in 1965, the value of Rhodesia's total exports declined to 99 million in 1968. The agriculture sector of the Rhodesian economy borne the brunt of sanctions on exports. Rhodesian import which were valued at £R 120 million in 1965 were cut back to £R104 million in 1968 and £R 99 million in 1969.²² Thus Rhodesia had to pay heavy cost in economic terms. Moreover Galtung's argument that value deprivation leads to political integration instead of pol. Disintegration may be true, but political integration is not sufficient condition for evading economic sanctions.²³ The Iraqi case demonstrates that though rally -around- the flag feelings have aroused, still Iraq is gradually accepting the norms. The

²¹ For details see *ibid.* 14, p.393.

²² Margaret Doxey, *Eco. Sanctions and International Enforcement* London, Oxford, New York 1971.

²³ Jerrol Green *Strategies for Evading Eco. Sanctions*: in Nincide & Wallen Steen edited. 61-85.

increasing impact of sanctions over time increased the pressure on Saddam Hussein, the Iraqi dictator and ultimately contributes in a modest way to the desired outcome. Baghdad has made several significant gestures of compliance. In Nov. 1993, Baghdad allowed UNSCOM to install permanent UN monitoring facilities on Iraqi territory to verify the destruction of weapons of mass destruction.²⁴ One year later, Baghdad accepted the findings of the UN Boundary Demarcation Commission and declared its irrevocable and unqualified recognition of the sovereignty of Kuwait and the redrawn International borders.²⁵ Sanctions have constrained Baghdad's ability to rebuild its war machine.²⁶ Iraq has suffered 48 per cent loss in GNP.²⁷ The main problem with Galtung and Knorr was that they judged the efficacy of sanctions examining whether sanctions achieved the stated ultimate goals. In case of war, we can say complete failure or success, but in sanctions regime, the notion of 'efficacy' is not necessarily synonymous with that of success. It is entirely possible that sanctions could be effective in terms of depriving the target of values it desires to possess and thus pressuring it to gradually accept

²⁴ David Cortright and George A Lopez "Are sanctions just? The problematic case of Iraq". *Journal of International Affairs*. Spring 1999. 52. no.2.p.746.

²⁵ *The UN and Iraq-Kuwait Conflict (1990-96)*. Blue Books Series 9. (New York 1996). pp.54-55.

²⁶ Vladimir Orlov and William C. Potter. 'The Mystery of the Sunken Gyros'. *Bulletin of the Atomic Scientists*. 54. No.6. (Nov/ Dec.1998), p.34-39.

²⁷ Robert A Pape. *Why Economic Sanctions do not work International Security*, vol.22 No. 2 (Fall 1997), p.109.

international norms, yet ultimately not be successful in achieving their stated political objectives.²⁸ Knorr as such did not provide any theoretical framework, he made an empirical study. His analysis of the causes for the ineffectiveness of sanctions on the basis of his study gives a clear insight into the problem of co-operation, which lessens the efficacy of collective economic sanctions. It has remained a pertinent issue and the concept of burden sharing is being debated in recent years.

Another study made by Hufbauer, Schott and Elliot (HSE) (1990) sought to measure the effectiveness of economic sanctions. 115 cases of sanctions beginning with world war I and continuing through 1989 were analyzed. Their dependent variable "the success of an economic sanctions approach as varied from the perspective of the sender country had two parts. The policy- result measures the degree to which the sender's policy objectives were achieved and the sanctions contribution is the degree to which sanctions contributed to the outcome. Both are scaled from 1 to 4 : policy results (1) failed outcome; (2) unclear but possibly positive outcome. (3) positive outcome- a somewhat successful result (4) successful outcome and sanctions contribution: (a) Sector to negative contribution (b) minor contribution (c) modest contribution or (d) significant contribution

²⁸ Christopher Jayner, "The International Boycott as Economic Coercion in International Law Policy Place and Practice" *Van derbilt Journal of International Law* vol.17, 1978. p.205.

A product of 9 or higher (3 or more on the higher scale) is counted as a sanctions success.²⁹

On the basis, they reported sanctions success in 40 cases or 34% of the total which is sufficiently high proportion to be viewed as a credible alternative to military force.

Actually the high rate of success shown by their study is because they did not view sanctions as an alternative to military force. Even when sanctions work with other alternatives-like use of force and contribute to the achievement of outcome, they consider it success. Sometimes modest sanctions achieve modest objectives that is also not ignored by them. Robert A Pape, claimed that out of 40 cases in which HSE regarded sanctions as successful , only 5 were clear successes.³⁰ He argued that 18 were determined by force; not by economic sanctions; 8 were failures in which the target state never conceded to the coercer's demands: 6 are trade disputes not instance of economic sanctions; and 3 are indeterminate.³¹

Kimberly Ann Elliott accepted the fact that they were not confined to find out efficacy of sanctions as an alternative to military forces.³² They

²⁹ Ibid. 4 second edition. Vol. 1 Washington D.C. 1990 Pp. 41-42.; 49-50.

³⁰ For details see Ibid. 16, pp.99-105.

³¹ Ibid., 27, pp.99-105.

³² Kimberly Ann Elliott. *The Sanctions Glass: Half full or completely empty: International Security*, vol.23, no.1 Summer 1998. p.53.

included sanctions intended to buttress military power and hasten an adversary's defeat.

Spectrum of Sanctions

Within the spectrum of sanctions, there appears to be four distinct but broad categories available: moral and political; economic and physical or military. Conceptually, sanctions are viewed as a broad spectrum ranging in degrees of intensity from 'soft' techniques such as diplomatic and political actions, through economic and financial manipulation and ending with 'hard' techniques such as physical threats and limited and precisely defined use of force.³³

The nature of moral sanctions can be appraised more accurately by considering them as a general sanction of international law. Hsu Mo observed,

“The great body of rules that govern international relations have therefore been mainly enforced, not objectively by force but by subjectively by a common sense of decency existing among the members of the civilized international community”.³⁴

³³ Ibid.2.

³⁴ Hsu Mo. “Th Sanctions of International Law”. Transactions of Grotions Society.35.

Moral pressure is an indispensable element in any system of international law and order.³⁵

Under the headings of political sanctions are induced techniques like disruption of the process of regular diplomatic intercourse: verbal communication, joint or unilateral diplomatic protest.

The appeal of moral and political sanctions stems from the fact that their imposition or exercise does not cause major losses to the sanctioning state or non-target states. But they are not very effective, they are of limited utility unless they are preface to more direct and stern types of sanctions.

Economic sanctions is the most effective and most frequently used sanctions. Economic sanctions seek to lower the aggregate economic welfare of a target state reducing international trade in order to coerce the target government to change its political behaviour. They may be grouped into three types: embargoes, boycotts, and blockades. Economic embargoes and boycotts consist of a number of specific actions like import control to target states, export control from the states. The cumulative impact of either embargoes or boycotts is increased considerably, where ratio of applicants to non-applicants is high. So the use of such measures by

³⁵ J.F. Dulles. "Should Economic Sanctions be applied in International Disputes". *Annals: American Academy*. 162. (1932).

international organisation have a good chance of being succeed. The main problem with economic sanctions is that due to disruption of trade relations, all trade partners of target state also get affected by sanctions. In recent years, the problem has acquired acute form due to growing interdependence among nations.

The extreme aspect of spectrum of types and categories of sanctions is the limited use of force. It should be used reluctantly and with great caution. In the application of this form of sanctions: non-target states get affected but to a lesser degree than it happens in case of the application of economic sanctions.

So far the present study, it is the economic sanction which is focused. There, the losses incurred by non-target states are maximum.

Sanctions and International Organsiation

The concept of sanctions in international relations got institutionalized in the covenant of the League of Nations. The League Covenant contained a purely juristic interpretation of it. The Covenant specified the Legal obligation of states, if a state disregarded the obligation established by law, in other words, if they violated the provisions of the covenant, it would *ispo facto* commit a delict and be subject to the sanctions for the delict.

The provisions are laid out in partial area para of Article 16; though it was not termed as sanction.

- (1) Should any member of the league resort to war in disregard of its covenants under Article XII, XIII, XIV, it shall ipso facto be deemed to have committed an act of war against all other members of the league which hereby undertake immediately to subject it to the severance of all trade or financial relations; the prohibition of all intercourse between their nationals and nations of the covenant breaking states and the prevention of a financial, commercial or personal intercourse between the nationals of the convenient breaking states and the nationals of any other states whether a member of the league or not.
- (2) It shall be the duty of the council in such cases to recommend to the several governments concerned what effective military, naval or air forces, the members of the league shall severally contributed to the armed , forces to be used to protect the covenant of the league.

It is observed that the article contemplated the contingency of a recourse to war, only in violation of the covenant and that of any breach of an international obligation but refrains from war. In such a case, the only sanction was to expel that particular member from the league (art.16 (4)).

If the League Covenant provided the specifically identified transgression, be punished by specific penalties, the charter of the UN takes a considerable step away from the notion of vindictory punishment of specified depicts. Considering sanction from juristic point of view, the charter of the UN provides for only two sanctions Article 6 and Article 19.³⁶

Article 6 reads

“A member of the United Nations which has persistently violated the principles contained in the present charter may be expelled from the organization by the general Assembly upon the recommendation of the Security Council.

The other sanction in juristic sense provided for the charter is to be found in Article 19. Using the a number can be debarred from the right to vote in the General Assembly if its dues of financial contribution exceeds a particular limit.

But enforcement measures provided for by the charter are also called sanctions. (article 41 and Art.42).

Article 39 of the UN charter reads:

³⁶ Ibid.12.

“The Security Council shall determine the existence of any threat to the peace, breach of peace or act of aggression and shall make recommendations or decide what measures shall be taken in accordance with Article 41 and Article 42, to maintain or restore international peace and Security.

In Article 41, there is a mention of economic measures to be taken:

“The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions and it may call upon the Members of the United Nations to apply such measures. They may include complete or partial interruption of economic relations and of mail, sea, air, postal, telegraphic, radio and other means of communication and the severance of diplomatic relations”.

Article 42 states after the failure of measures adopted under Article 41 to deliver the goals, it may take action-using force.

“Shall the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea or land forces as may be necessary to maintain or restore international peace and Security. Such action may include demonstrations; blockade, and other operations by air, sea or land forces of Members of the United Nations”.

Actually the character so far as sanctions is concerned, symbolizes a retreat from legalism.

So far as enforcement and implementation is concerned, international sanctions face certain real problems. We cannot impose on the maintenance of order and peace in the international system, the same kind of relationship between obligation delict and sanction, that is enmeshed in the maintenance of order within the state. International community consists of individuals sovereign states and they are independent in taking decisions. So it is a complicated pattern of political interaction between sovereign states in which the system is not valued more highly than its component parts.³⁷ Still the provisions of mandatory sanctions, mentioned in chapter VII of the charter, compel member states to abide by the decisions of the Security Council. These mandatory provisions give rise to a set of different problem in implementing sanctions. When sanctions are made mandatory or comprehensive, all members, despite their particular or specific problems, are bound to follow them. It might hurt certain countries disproportionately. The next chapter will deal with the aspect of sanctions.

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³⁷ Ibid. 4, p.138.

Chapter II

The Issue of Third States : Concept and Evolution

The decision taken by the Security Council on 6 August 1990 through resolution 661 inaugurated the first experiment of comprehensive mandatory sanctions undertaken by a world body in the post cold war period. The sanctions were imposed after Iraq had failed to comply with the demand made in the Security Council resolution 660 that it (Iraq) withdrew unconditionally from Kuwait. Iraq had upsurge the authority of the Legitimate govt of Kuwait and occupied it.

Though the Iraqi case demonstrated the newly acquired vitality and relevance of the UN, it also brought into focus certain finer points of sanctioning process. One such point is the issue of third party state which is related to the general question of collateral damage and sharing casts of enforcement between states in collective sanctions policy.

The chapter will try to explain the concept of third party states: how it evolved: what provisions are there in the Un charter and a brief analysis of past experiences.

The concept of third party states in an evolving concept. Though the term 'third party state is used frequently certain questions are still not explained precisely - which are third states? What criteria a state should

fulfill to term as third state? Could we regard all non-target states that suffer losses and damages due to the implementation of mandatory sanctions as third states. Moreover, is it a concept that is mainly supported and used by developing countries which are vulnerable to sanctions regime?

The application of mandatory sanctions not only affected the target state/states, it also affects the economics of the sanctioning states which are economically linked with the target state or geographically contiguous to it. These non-target states which suffer either because they are neighbours of the target or because, they are major trade partners, have to bear disproportionate costs. These non-target states are generally regarded as third party states.

It gives an impression that all states except the target state that suffer or face special economic problems due to their implementation of mandatory sanctions regimes are third party states. But this is not there. Margaret Doxey¹ gives an idea that only those non-target states which are not participants in the decision making process of the UN but due to mandatory nature of Security Councils decision has to comply with them despite bearing heavy losses and damages are called third states. But the

¹ Margaret Doxey United Nations Sanctions: Current Policy Issues, Centre for Foreign Studies. Dalhousie University. Halifax. Nova Scotia. 1997. p.5.

explanation has its own weaknesses. It implies that members of the Security Council permanent as well as non-permanent can not be a third states as they are part of the decision making process. Permanent members can use their veto power to ensure that sanctions are not imposed when political or eco. reasons make them an unacceptable policy option for them. The other 10 non permanent members though donot enjoy the right of veto- have some input into its decisions. But the rest of the members is expected to comply with such decisions even if they cause great economic problems to them. But we can't see the Security Council as a totally separate entity from that of the Un. The Security Council derives its authority from the Un charter only, to which each member has an obligation to obey and protect. Moreover, if it is accepted, even in a particular case, we may not be able to specify which are the third states. Because the non-permanent members of the Security Council are elected for a period of two years only. If it is accepted, a state which is not a member of the Security council at the time of implementing sanctions and suffers losses but enter the Security Council during the sanctioning period, will cease to be a third state.

Experiences have shown that all non-target states that suffer losses and damages due to implementation of sanctions are not considered third

states. The concept has evolved around the Article 50² of the charter. The sanctions imposed on southern Rhodesia adversely affected the economy of Britain - in 1965. British exports to Rhodesia were worth 31.7 million. Under sanctions regime, they had been virtually eliminated.³ But British was not regarded as third party state. Britain had never sought to consult the Security council with regard to the special economic problems being faced by it. Actually Britain was not a passive actor in the process, it was a major actor and played significant role in making various decisions.

Viewing if from this perspective it is argued that those states that donot actively joint the sanctioning front, but abide by the Security Council's decisions, implement sanctions and suffer serious economic problems are third states.

Moreover, the term has become synonymous with countries of Africa - Afro-Asian, American and the east European countries which are passing through painful transition to market oriented economy for. In case of Rhodesia they were Zambia, Malawi, Mozambique, Botswana.⁴ All of

² Article 50: reads, If preventive or enforcement measures against any state are taken by the Security Council, any other state whether a member of the UN or not which finds itself confronted with special eco. Problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of these problems.

³ Margaret Doxey, *Economic Sanctions and International Enforcement*. London, Oxford. New York, 1971. p.109.

⁴ Official Records of the Security Council twenty-second Year, Supplement for January, February and March 1967 Document S/7781 Annex II.

them were neighbours of Rhodesia and the problems faced by them mainly arose due to the disruption of transport system. In the Iraqi case 21 nations applied to consult the Security council under Article 50. Bangladesh, Bulgaria, former (Czechoslovakia, Djibouti, India, Jordan, Lebanon, Mauritania, Pakistan, the Philippines, Poland, Romania, the Seychelles: Sri Lanka: Suddan: the Syrian Arab Republic Tunisea, Uruguay, Vietnam: Yemen, Yugoslavia.⁵ All of them were Afro-Asian, Latin American and east European countries, but not neighbouring countries. So in the Iraq case, the sanctions affected countries were even from far-off countries. It is because of the fact that Iraq and Kuwait were main producers and exporters of oil and the developing countries are dependent on their oil. They suffered because they were major trading partners.

There is another aspect that is observed. It is widely accepted that the concept of third party state has its genesis in article 50 of the charter. If it is so, it is not essential to be member of the United Nation to be a third party state. Non-member states are likely to suffer losses and damages in the same way as the member states if non-member states comply with the provisions of mandatory sanctions. Article 50 has also given the right to consult to any other state whether a member of the UN or not with regard to solution to special economic problems faced by them.

⁵ UN DOC. S/22382. 22 March 1991.

The Evolution of the Concept

The genesis of the concept can be traced back to the League of Nations covenant signed at the Paris Peace Conference (1919). The League covenant acknowledged the need for mutual assistance among the members which support one another in financial and economic measures taken under that article in order to minimize the losses and inconvenience” resulting from them. The league at the time of imposing sanctions on Italy due to this aggression on Ethiopia reiterated its convention. The V proposal was related to the organization of mutual support.

But in practice, the states which applied sanctions despite heavy loss of trade received little help from other league members. Yugoslavia was particularly hard hit as she was accustomed to send 21% of her exports to Italy and 80% of this trade was lost. But the league did thing to assuage the losses. The sole effort made by the league members to deal with the problem was to guarantee that most favoured treatment would not be forfeited by states which ceased to trade with Italy.

The insensitivity shown by the League of Nations in this case hurt the sentiments of the small members of the league. Though in the subsequent years too, no measure was taken in the direction it remained in the minds of the statesman especially those belonging to the small nations.

In discussion of League reform, Switzerland pointed out that for a small country, the application of article 16 might be a matter of life and death.

The framers of the UN charter paid little attention to the problem and incorporated Article 49 and Article 50.

Article 49 States

“The members of the United Nations shall in offering mutual assistance in carrying out the measures decided upon by the Security Council.

Article 50 States

“If preventive or enforcement measures against any state are taken by the Security Council, any other state whether as member of the United Nations or not which finds 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”.

Article 49 thus constitutes a commitment to mutual assistances. But the article does not specifically mention in what ways and what kind of assistance will be provided. On the other hand, Article 50 third gives party states the right to ‘consult’ their grievances with the council. But the term consult is vague and has been interpreted differently. It may mean anything from just consultation to compensation. Article 50, allows govt. to air their

grievances once sanctions are in place but fails to provide any definition of 'special economic problems'. Or offer any guarantee of redress. Nor does it set up machinery to handle complaints. ("Doxey UN sanction: current policy issue P.6.)

The collective measures committee of the General Assembly recommended",⁶

"In the planning of collective measures it is obviously desirable that consideration should be given to the differing 'incidence of their cost and that appropriate steps should be taken to reduce excessive hardships on individual states and so far as (may be) possible to ensure that the total burden arising from the United Nations action against aggression is widely and equitably distributed. An equitable sharing of the costs of collection measures should be corollary of collective action".

The first comprehensive mandatory sanction under the UN was imposed upon Southern Rhodesia. In that case too, a number of countries - Zambia, Botswana, Malawi, Mozambique - faced special economic problems which arose from carrying out from the preventions and enforcement measure taken by the Security council. The Resolution 253, through which mandatory sanctions were imposed specifically appealed

⁶ UN DOC. A/1891, Supplement 13 (1951). p.8.

member states to help solve Zambia's special economic problems. As a result of appeals under article 50. UN missions made assessment of their problems and coordinator for assistance were appointed in New York. But the assistance given was not adequate. The International community gave Zambia just US\$100 million, although Zambia had suffered a loss of as much as US \$650 million.⁷

But the sanctions imposed on Iraq had wide economic and financial repercussions: there were immediate and dire economic effects on neighbouring states and serious consequences for countries further afield.⁸

The Security Council imposed sanction on 6 august 1990 but resolution 661 did not mention Article 50. But 21 government in the region and from other parts of the world applied for assistance claiming a total estimated loss of \$30 billion.⁹ The major impact of the crisis was the higher price of oil the loss of remittance from migrant workers and the flood of returnees and refugees from the Gulf area. Loss of trade and aid and non-payment of debts were more enduring problems.

⁷ See for instance, statement by the co-ordinators of UN Assistance to Zambia. 27, July 1976. Un DOC. E/5867: pp.5-9.

⁸ Assistance to Mozambique UN Doc. E 5/812 30 April/1976. (3) Neera Chandnken Power Sanction New Delhi op.174.

⁹ UN Doc. S/26705.

This is for the first time, so many country (that applied for assistance) got affected. Article 50 procedure and obvious inequities of burden sharing in this case led to a vigorous political debate at the UN. The United States and other donor countries argue that article 50 offers not more than consultation. They contend that problems are best dealt only on an adhoc basis. But vulnerable countries particularly in the developing world on the other hand argued it is much more than consultation. The use of the word 'solution' indicates it. And a solution to the problem is desired according to the charter Article 50.

The issue occupied on significant place in former UN Secretary General Boutros-Boutros Ghali's report: 'an Agender for peace'. He argued that states which experienced special economic problems as a result of sanctions should have a 'realistic possibility of having their difficulties addressed' and recommended that the Security Council should desire a set of measures' to insulate states from such difficulties.¹⁰

In the supplementary position papers to the 'A Agenda for Peace' Ghali argued that the costs of sanctions' should be borne equitably by all Member states and not exclusively by them who have the misfortune to be neighbours or major economic partners of the target state".¹¹

¹⁰ UN Doc. A47/277-S/24111. Para 41.

¹¹ UN Doc. A/50/60. 3 January. 1995. Para 17.

In that paper, Ghali also proposed that a permanent mechanism should be set up with the UN Secretariat to handle a number of tasks. One of which would be exploring ways of assisting member states that are suffering collateral damage and evacuate claims .. under Article 50".¹²

The General Assembly has made the issue of assistance to third states a regular agenda (General Assembly Resolution 50/51 of 11 Dec. 1995: 51/208 of 17 Dec. 1996:52/162 of 15 Dec. 1997: 53/108 of 8th Dec. 1998). The General Assembly also receives an annual report from the Secretary - General on the implementation of Article 50. The issue has also been considered by the special committee on the charter of the United Nations and the Strengthening of the role of the General Assembly.

Thus the issue of third states' has acquired a prominent position in the UN deliberations. But a lot is yet to be done. There is a need to understand the problem, its various dimensions. The next chapter will try to serve the purpose.

¹² Ibid.

Chapter - III

UN Sanctions on Iraq and its Impact on India

The purpose of the case study is to show the dimensions of the problem: sources of hardships and the variety of costs which third party state may encounter as a result of implementing sanctions. An in-depth analysis of UN sanctions on Iraq and its impact on India will be made. The impact on India will be examined at the personnel (migrants losses): regional (impact on Kerala's economy) as well as at the National level or to say at macro economics level.

Before examining the impact it is imperative to look at the pattern of relationship that India had with Iraq and Kuwait. The relationship can be explained within for broader pattern of economic relationship that usually exists between oil-exporting middle east economies and those of oil-importing developing countries. There exists three fold relationship:-

1. Dependence of the developing countries on middle east oil.
2. Trade and aid relationship.
3. Presence of large number of labourers which constitutes a good portion of their labour force and their remittances contribute a handsome share to these countries foreign exchange earnings.

The first and the last one are the most important in terms of economic impact.

Though variations occur sometimes, this pattern is more or less similar. Indian economy is dependent upon middle east for petroleum oil and lubricants. The oil imports constitute a major share in India overall import. Though the share of oil imports in total imports has gone down considerably from 41.91 percent of total imports in 1980-81: to 25.4 per cent in 1985-85 and to 15.5 percent in 1988-89 in terms of values and quantities, it remained significant for Indian economy. Iraq and Kuwait together exported 3.50 million tones of oil to India in 1989-90 and were contracted to supply 5 million tones of crude during 1990-91. Soviet Union was also promised to export 4.50 million tones of oil to India during that period. But the oil imported from the former USSR actually came from Iraq with which the former USSR had a bi-lateral barter arrangement. Practically, 45% of Indian crude oil imports came from Iraq and Kuwait. So the sanctions on Iraq and Kuwait cut around 45% of the total imports of oil.¹

So for as trade relations apart from oil, were concerned. India exported items like tea mate: vegetables and fruits, species; manufactures

¹ K.V. Raju Gulf Crisis-Impact on India. Southern Economist. November 15, 1990. p.10.

of metals: machinery and transport equipment rubber: textile yarns: fabrics: iron and steel etc. On the other hand, India imported from Iraq fruits and nuts fresh or dried: crude fertilizer and crude minerals. But the volume of trade with Iraq and Kuwait taken together constituted around 1 percent of India's total trade. In 1989-90, West Asian countries accounted for 7.2% of India's exports, with Kuwait accounting for 0.7 percent and Iraq 0.5 percent.² The table 1 below shows the trend in India's export to Iraq and Kuwait.

Table 1

Title India's exports to Kuwait and Iraq (1987-1994)

(In Rupees Crore)

	1987	1988	1989	1990	1991	1992	1993	1994
India's exports to Iraq	18	53	126	44	0	17	12	1
India exports to Kuwait	106	144	198	74	129	314	332	420
Export to Iraq and Kuwait	124	198	324	118	129	331	344	441

Sources: Economic Survey 1990-91: S.88; 1996-97: S-87

The table shows that India's export to Iraq was Rs. 18 crores in 1987; it rose up to Rs. 53 crore in 1988-89: and reached Rs. 126 crores in 1989. But in 1990 it dropped down to Rs. 44 crores. The sanctions on Iraq

² Govt. Of India. Economic Survey. 1990-91. P.155.

was the cause for the decline. In 1991, there was no export from India to Iraq. Even in subsequent years too. It is almost non-existent. On the other hand, trade with Kuwait, though decline in 1990 - (from Rs. 198 crores in 1989 to Rs.74 crores in 1990) it crossed the earlier mark within two years and in 1992, Indian's exports to Kuwait was Rs. 314 crores. Both the aspects have to be taken into consideration while evaluating the impact of sanctions.

There were a large number of Indian labourers working in Kuwait and Iraq. Though the migration started quite early, it was the oil crisis of 1973 which gave the impetus and the number of migrants increased manifold. Before the outbreak of the crisis, there were about 1,81,000 Indians in Iraq and Kuwait of which 1,37,000 were workers: with 44,000 dependents. (See table 2).

Table 2

Title : Number of Indian Migrants workers and family members in Iraq and Kuwait on the eve of sanctions (1990)

Country	Population	Economically active	Dependents
Iraq	9	7	2
Kuwait	172	130	42
Total	181	137	44

Source:Regional Information Network on International Labour migration, ILO-ROAP Bangkok.

The migrants contributed to the foreign exchange earnings through remittances. The following table 3 shows the share of Gulf Countries in total remittances.

Table 3

Title : The share of Gulf countries in total remittances of India

Year	Total	from Gulf Countries	% of the total
1984-85	29.8189	17.145	57.5
1985-86	27.375	14.522	53.04
1986-87	28.196	15.649	55.5
1987-88	33.566	18.857	56.17
1988-89		21.646	
1989-90	37980		

Source: Economic Survey Government of India.

In migrant workers were mostly from Kerala. Keralites constituted around 60% of the total return migrants 1,10,000 out of 1,81,000.³ So the impact of sanctions varied from region to region.

The study of relationship helps to find out the areas which were most likely to be affected. The ILO-ARTEP 1990⁴ has categorized them into three major parts - and the categorization seems most appropriate and comprehensive as it covers all the spheres of losses or damages. The categorization is made in the following ways:-

1. Migrant losses
2. Labour market impact
3. External sector impact. It has been subdivided into
 - (a) impact on exports
 - (b) losses of remittances
 - (c) impact on concessional capital flows
 - (d) foreign exchange cost of emergency repatriation
 - (e) increase in oil prices and India had to purchase at higher prices : which aggravated the balance of payment crisis.

³ ILO-ARTEP 1990: Govt. Of Kerala. State Planning Board.

⁴ ILO-ARTEP 1990: "The Economic Impact of the Gulf crisis on the Indian Economy even Special references to Kerala and Measure for Re-absorption of return Musrants". New Delhi, Dec. 1990.

1. **Migrant losses:**

Individual migrants suffered a broad spectrum of material human and psychological losses. Attempts are made to estimate the only first set of losses, as the other two are difficult to quantify.

Even regarding the first set of losses, the inherent difficulty of measuring and verifying such claims/losses must be appreciated. While there is no uniform. And universally accepted methodology to estimate the losses, there is little doubt that they were substantial. Still they can be estimated in two ways:-

1. Using direct method.
2. Based on claims reported by affected individuals.

While suitable tool is missing to use direct method, data collected on the basis of claims reported by affected migrants might be exaggerated one. The affected migrants usually report losses much higher than the actual losses, on the hope of getting more compensation. That is why a mixture of both the methods can be followed to get an accurate data.

The migrant losses can be categorized into various types. Though various estimates have categorized it differently, Piyasiri

Wickramasekara's categorization⁵ seems most appropriate and comprehensive the following charts show it:-

Due to lack of any standardised well accepted methodology for estimating the losses; variations occur in estimation. Variations may occur also because of different nature of sources of data considered. Among various estimates, two prominent estimate. One made by ILO-ARTEP (1990) and the other made by T.M. Thomas Isaac.⁶ - will be examined and a comparative study will be done to see why variation occur and which one is the most appropriate. The two particular estimates are chosen because in both the studies due importance was given to find out the migrants losses.

⁵ Piyasiri Wickramasekara, "Economic Implications of the Gulf crisis on Asian Labour Exporting Countries: An overview": in his edited". The Gulf crisis and South Asia. Studies on the eco. Impact" UNDP/ILO ARTET. New Delhi 1993.

⁶ Estimation made by Isaac in his article Eco. Consequences of the Gulf crisis: A study of India with special Reference to Kerala in.

Chart

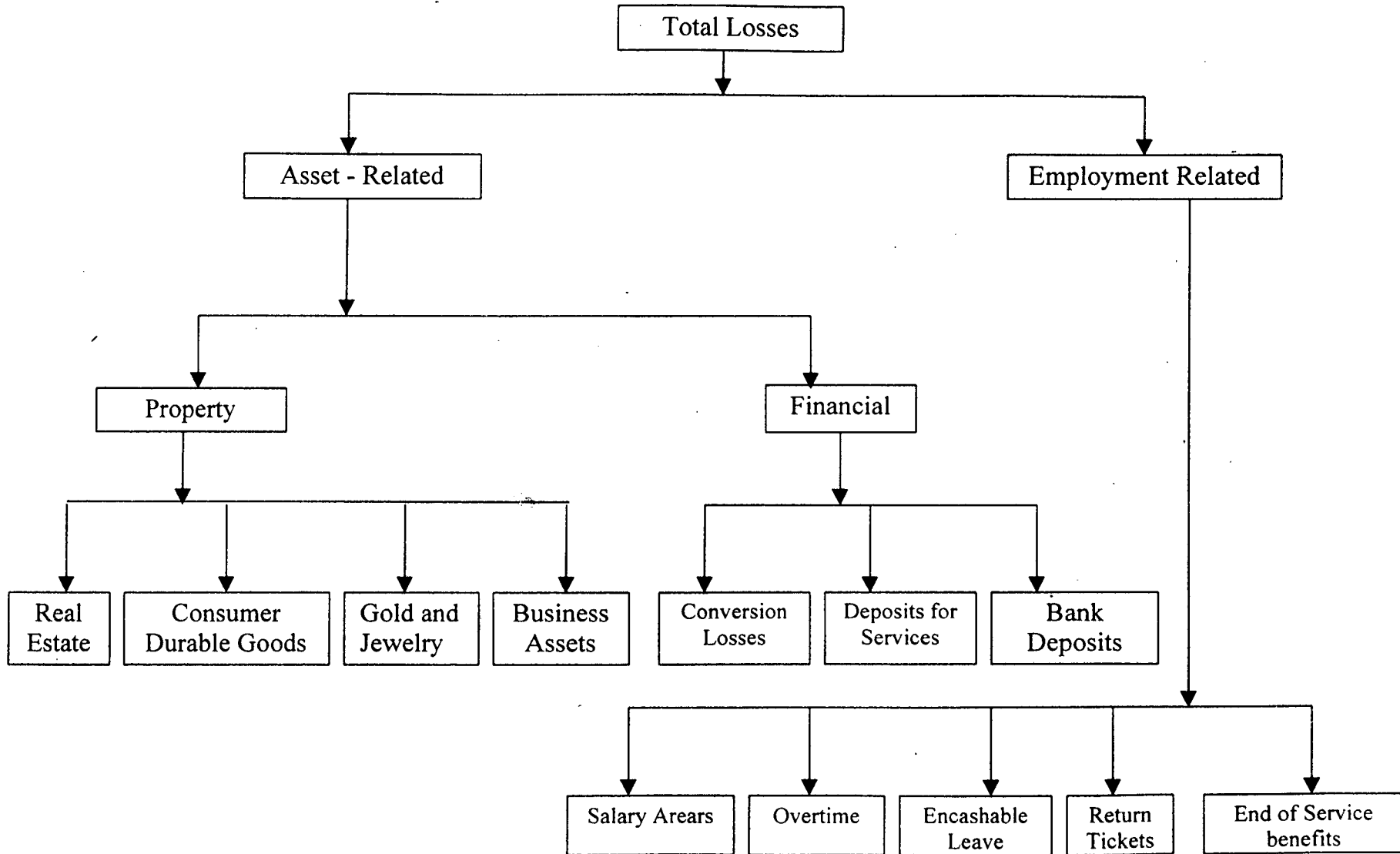


Table 4 and Table 5 shows their estimates.

Table 4: ILO-ARTEP estimates the losses suffered by Indian Migrant from Kuwait

	Asset Related Losses Item	Amount of Losses
1.	Real Estate	US \$ 10 million
2.	Losses of Consumer Durable Assets	US \$ 120 million
3.	Bank Deposits	US\$ 200 million
4.	Deposits for Services	US \$ 20 million
5.	Conversion Loss	US \$ 70 million
	Total	US \$ 420 million

	Losses of Employment Related entitlement	Amount of Losses
1.	Loss of Last Month Salary	US \$ 120 million
2.	Loss of overtime Payment for one month	US \$ 18 million
3.	Encashable leave entitlement	US \$ 60 million
4.	Uncashed Return Tickets	US \$ 4.5
5.	Accumulated end service benefits	US \$ 440 million

The estimate has shown the overall estimate at \$1042 million.

The other study done by Isaac tried to estimate the total material losses incurred by the migrants on the basis of 1,770 records of claims for compensation collected by one of the leading Gulf migrant's organization in Southern Kerala.⁷ The study has shown the migrant losses under following headings and accounted the losses thus (table 5).

Table 5

**Title : Estimates of Total Losses Suffered by Indian Migrants from
Kuwait**

Item	Amount of Losses
End of Service benefits	\$ 920 million
Salary Arears	\$ 59.3 million
Personal effects	\$ 706.6 million
Automobile	\$ 240 million
Bank Deposits	\$ 153.3 million
Business Assets	\$ 12 million
Total	\$ 2091 million

⁷ Computed from abstract of Personal claims. Gulf Malleable Welfare Association - Kottayam.

The estimates made by Isaac has shown almost the double amount of losses than that shown by ILO-ARTEP estimate. Actually the element of overestimation resulted from the inherent bias in the nature of the sample taken in Isaac study. The migrants usually report losses much higher than the actual one on the hope of getting more compensation. But the ILO ARTEP estimate also suffers from certain limitations. It did not estimate the loss on account of gold and jewellery and loss of business Assets, though it mentioned it. Both the estimates excluded the loss suffered by the Indian business community and construction companies in Kuwait. But still so far as coverage of various areas in considered ILO-ARTEP report in more comprehensive and sophisticated.

A comparative study of the two estimates and the examination of their procedure of estimation will help us to find out the actual losses.

(A) Losses of Asset - Related Item:

Property related real estate

Migrants were not allowed by law to own land or houses in Kuwait and there could be no losses on the score. However, there were losses on account of Down payments and 'security deposits made in advance on leases and neutrals of both domestic as well as commercial properties. The

ILO-ARTEP report estimated it at \$ 10 million. The estimate made by Isaac did not specifically mention the loss in this particular item.

Losses of Household Consumer Durable Assets :

(CDAs) The ILO-ARTEP study estimated the losses under the item at \$120 million. It arrived at the estimate assuming that of the 1,30,000 workers, 50% were assumed to have held CDAs worth US \$ 100 each; 40% of US \$ 1000 each: and 10% of US\$5000 each. Moreover, 4% of them assumed to have owned a car, valued on average at US\$4000 each. This added up to CDA holdings of approximately US \$ 150 million. But several other factors - both negative and positive played their role-like value of depreciation: recovery from the last minute sale of assets: values of CDAs successfully taken out of the country. Taking into consideration all this, it was finally estimated at \$120 million.

Loss of Gold and Jewellery:

Though ILO-ARTEP estimate mentioned the item, it did not place any figure. It only made a few relevant observations. The other study (Isaac study) had taken into consideration the item and included it in the broader item Personal effects. (Jewellery and Consumer durable other than automobiles).

Though from the study of Isaac it is impossible to know the exact the amount of loss under the item, one thing was sure that it constituted a major part of the total US\$706.5 million under personal effects. Though the richer families making late exit were able to carry out considerable

amount of gold and jewellery, the fact remains that only such holdings could in any case had been taken out that were held outside bank security vaults.

Losses in Business assets

The ILO ARTEP mentioned a good guidelines mentioning three categories of losses needed to be estimated - firstly losses incurred by shopowners and traders who had lost considerable stock of goods. Secondly, losses of tools, equipments and assets of those involved in occupation such as tailoring repairing workshops etc. The third was the loss suffered by those long standing substantial business interests developed over the past couple of decades.

But is did not provide any estimate. The other study (Isaac one) had accounted the losses of business assets at \$12 million.⁸

Financial Losses

Bank Deposits

A sizable percentage of workers used to save in banks overseas and bring back a substantial sum of money with them upon their return. The loss affected the skilled and professional classes more than the unskilled workers who tend to remit their savings on a regular basis. The per capita bank deposits were the lowest for unskilled workers in fact. Zero for domestic service workers.⁹ The ILO-ARTEP estimate (1990) accounted

⁸ Ibid 4. Table 3.9, 3.6 million K.D. is equivalent do is \$ 12 million.

⁹ Ibid., 4, Table 3.8.

the losses at US\$ 170 million for skilled and professional class. The estimate assumed that the technical professional and the middle skill workers (together adding up to 13% of the work force i.e. About 17,000 in number) had saved on average half a year's salary (around 400 kd. Per month on average).¹⁰

For the poor migrants end of the month deposits of one month salary estimated to be \$ 30 million (assuming an average salary of 100 KD and an end of the month bank deposit of one month's salary for another 1,0,000 workers). So the total losses were accounted at US \$ 200 million.

On the other hand, the other estimate fixed the loss of bank deposits at \$ 153.3 million. It was the only item taken into consideration by the study under financial losses. ILO - ARTEP took into account losses of deposits on services and loss in conversion of KD at discounted rate, putting those losses at US \$20 million and US \$ 70 million respectively. Indian returnees were allowed to convert a maximum of 400 KDs at a fixed rate of Rs. 25 per K.D. i.e. Rs. 35 below the normal rate.

(B) Losses of Employment Related Entitlements:

Loss of last month salary:

As the crisis broke out at the beginning of the month, and the usual date of payment is the end of the first week (According to ILO ARTEP), almost all workers lost one month salary. The ILO-ARTEP accounted it at

¹⁰ ILO-ARTEP. 1990. p.57.

\$ 120 million. The estimate assumed, an average of 200 KD per month for the 87 percent of the migrant unskilled and semi-skilled workers and an average of 800 KDs per month for the remaining 13%. The overall average wage of them came out at 278 KD per month. Then it was multiplied by the number of workers (1,30,000).

The ILO-ARTEP estimated loss of overtime payment at US \$ 18 million.

The Isaac study combined the both and named the stem as loss from salary arrears. The claims of loss from salary arrears were estimates relatively low at US \$ 59.3 million.

Accumulated end of the service benefits

The accumulated end of service benefits due to the workers was the most important item of loss. Every migrant workers was entitled to fifteen days wage per year during the first five years of employment and twice that rate subsequently as service benefits. Since the migrant stock was a mature one, there was considerable accumulation of these services entitlements over the years. ILO-ARTEP accounted it at US \$ 440 million. But the estimate of the alternative study (Isaac study) was more than double on this account US \$ 920 million.

The difference may be due to under-estimation of duration of employment taken for calculation in the indirect method. There could also be exaggeration by the registrants of their claims. The actual figure might be somewhere between the two figures.

Impact on Labour Market

The imposition of sanctions resulted in the displacement of large number of workers. The forced premature return of thousands of workers to their home counties was economically a crucial event. The magnitude or intensity of the impact is determined by a number of factors.

- (1) Total number of return workers and the proportion of workers among them.
- (2) Occupational and skill distribution of workers.
- (3) Local unemployment situation and migrants preference for entry into the local labour market.
- (4) Option available for migrants in terms of re-migration.

The number of contract workers before the Second August 1990 from India working in Kuwait and Iraq was 1,81,000 (see Tale 2) of which 1,70,000 returned by Dec. 1990.¹¹ The displaced Indian migrants

¹¹ Ibid.4, Table 3.8.

population from Iraq and Kuwait constituted anything between 10% to 12% of the total number of Indian workers in the Gulf.¹² The Kuwait migrant stock a mature one and was slightly biased in favour of high skill and educational level. (See the table below).

Table 6

Title : Estimate of occupational distribution of Indian Migrant workforce in Kuwait.

Category	No. of workers	Percentage
Unskilled	44,000	35.2
Semi skilled (production)	41,600	33.3
Semi skilled (office)	13,300	10.7
Skilled	11,600	9.2
Professional & Managerial	11,500	9.2
Business	3,000	2.4
Total	1,25,000	100.00

Source: Cited in T.M. Thomas Isaac's article Economic Consequences of the Gulf crisis: A Study of India with special reference to Kerala, UNDP/ILO ARTEP New Delhi 1993.

¹² Ibid.6, Table 1.4. p.11.

If the share of Kuwait in overseas migrant labour absorption is seen in terms of flow the orders of magnitude were substantially low. In 1986, the protector of migrants recorded 4325 migrants to Kuwait out of the total flow of 113,649. It meant only 3.7 percent of the annual flow. The share of Iraq in the total outflows had also trembled through the 1980s from 14.7 percent in 1982 to 4.4 percent in 1986. So the loss of capability with respect to annual Labour absorption overseas was not very significant.

The labour issues, if viewed from the point of view of the receiving economy of the returning migrants, it is appropriate to contrast the members of returning Kuwaiti and Iraqi migrant workers with the size and employment profits of the resident population. Viewed thus returnees constituted only a negligible proportion of the base taken involved. The entire stock of Iraqi and Kuwaiti workforce was estimated at 137,000 (see table 2). The state workers but leaving out marginal workers was approximately 270 million (ILO - ARTEP). The stock of migrants thus constituted but .05 percentage of the total or in 2000 main workers. Against the incremental workforce the 1,37,000 migrant workers made up 2.16% of the total. The joint employment in the public and private sectors in 1990 was an estimated 26.7 million. So the migrant stock formed .5% of it.

The analysis shows that labour market impacts was not significant at the national level. They were not of a relative magnitude so as to make major policy interventions explicitly on their account.

But at the regional level, the scenario was different. The labour market impact significant so far as Kerala's economy was concerned. Kerala accounted for an extremely high proportion of the returned migrants. Out of 1,80,000 Indians residents in Kuwait and Iraq before the sanctions, as many as 1,10,000 were Keralites.¹³ The relative size of the displaced migrants with respect to the relevant dimensions of the resident population was far larger. In relation to the total populations, the size of the returning population was fifteen times larger in Kerala than for India as a whole. The size of the returning stock of Keralite Kuwaiti and Iraqi migrants was as much as 10% of the total public and private sector employment in the state.¹⁴

But the actual impact was not so severe as the data provided. Because certain forces mitigated the severity of adverse impact like remigration: self employment initiations: etc. The ILO-ARTEP states that perhaps a maximum of 5% to 7% of the returnees were rendered destitute.

¹³ Govt. of Kerala. State Planning Board. 1991.

¹⁴ ILO-ARTEP 1991.

Their addition to the total stock of unemployment was not enough to make any major impact on the labour market, given that the open unemployment rate was as high as 20% (govt. Of Kerala. State Planning Board 1992).

External Sector Impact

The imposition of sanctions had had adverse impact on the external sector of the economy. The losses of Indian foreign exchange earning occurred in the forms of loss of merchandise exports to Iraq and Kuwait: remittance flown made by Indian migrants working there: earning from project investments by Indian business companies through contracts to be executed, the concessional capital flows emanating from Iraq and Kuwait.

Loss of merchandise Exports:

Iraq and Kuwait were trading partners of India. In 1989-90, Kuwait and Iraq accounted for 1.2% of Indian's merchandise exports.¹⁵ The export losses to Kuwait and Iraq as a result of the imposition of trade embargo was estimated at Rs. 270 crores for the year. The estimation procedures adopted to arrive at these figures are not known. The estimate made by alternative studies varies widely. In the letter dated 5 September 1990, from the permanent representation of India to the UN, C.R. Gharekhan, to the

¹⁵ Economic Survey Govt. Of India. 1990-91 para 9.22. p.155.

president of the Security Council loss of merchandise exports was estimated at Rs. 324 crores of the following twelve months.¹⁶ On the other hand ILO-ARTEP study put it at Rs. 207 crores.¹⁷ both the studies assumed that the quantity of exports remained constant for the year 1990-91 with that of the previous year. Table 1 shows that India's export to Iraq in 1989-90 was Rs. 324 crores and ILO - ARTEP took the data for 1988-89 from Direction of Trade statistics year Book (IMF) which showed the India's export to Iraq in 1988-89 at US\$114 million. But it can be seen from Table 1, the quantity of exports were increasing gradually, the latter two estimates might have under estimated the actual figure. If the losses are seen in subsequent years, it is seen trade with Kuwait has revived and in 1994 it reached Rs. 420 crores. But the loss of export to Iraq has continued till now.

Loss of remittances

The major inflow of foreign exchange took the form of migrants remittances. Table 3 shown that the Gulf countries contribution around 50-60 percentage of total remittances received by India. The sanctions and the subsequent events disrupted. Iraq and Kuwait contributed about 8.7 per

¹⁶ Ibid. 8.

¹⁷ UN DOC S/2921711 5 September 1990.

cent of total remittances in 1988-89.¹⁸ On this basis, the loss of remittances from Kuwait and Iraq for 1990-91 was officially placed at Rs. 490 crores.¹⁹

In the letter sent by permanent representative of India to the UN to the President of the Security Council²⁰ placed the estimate at Rs. 700 crores. It just mentioned the amount, without any explanation of estimation procedure. The ILO-ARTEP estimate on the other hand put it at Rs. 324 crores.

Amidst the wide variations in different estimates, it can be seen that in 1989-90 the remittance inflow was Rs. 3798 crores which was marginally lower than the amount of previous year. Even if we assume, the same level of remittance flow for 1990-91, estimated loss of Rs. 490 crores is clearly an overestimation. Because if the percentage of Iraq and Kuwait in total remittances for 1990-91 is taken as the same as in 1988-89 (8.7 percent). The amount comes about Rs. 330 crores. In this sense ILO-ARTEP estimate seems more appropriate.

The ratio of remittances to selected components of India's balance of payments such as exports/imports; trade balance; current account,

¹⁸ ILO-ARTEP (1991). Page No.34.

¹⁹ Economic Survey govt. Of India 1990-91, para 9.2 pg. 155.

²⁰ Ibid.

balance or debt service charges was seen to be highly significant. From a low ratio of around 5.5 to 7 percent during the first half of the seventies, remittances rose to 31.5% of the value of exports in 1980-81. Since then, they had established at a lower level of around 35 per cent to 50 per cent of the trade deficits and accounted for about 15 per cent of current account receipts in the first half of the 1980s. Thus at the macro level, remittance losses had their impact in the context of fragile economic conditions prevailing in India.

The impact of remittance losses at the regional level can be seen in the context of Kerala, Kerala's share in remittances from the Gulf region was 40-50 per cent of the total (Gulati and Mody 1986). But the impact was not too severe because most of the migrants spent their money on purchasing real estate and consumerable goods. So the earning of migrants thus contributed little to strengthen the production base. The result had been the emergence of a high consumption economy with a backward production base.

The remittance losses had a significant dampening impact on consumption and house construction in the Gulf migrants pockets. That was particularly visible in case of consumer durable and luxury goods markets. But the consequences were borne mainly by neighboring states' economies-Tamil Nadu, Karnataka because they were the suppliers.

There were certain other external sector impact:

Concessional capital outflows from Iraq and Kuwait into India had been negligible. Over the period 1980-81 to 1989-90, Iraq and Kuwait had taken together provided external assistance to India to the tune of Rs. 202 crores in loans and Rs. 7 crores in grants. At maximum, their share was 2.3 per cent of total external assistance authorized in the 1980s; this had dropped to a negligible .3% (Economic Survey Table 8.2 S.87). Indian had been receiving annually about Rs. 40 crores as assistance from Kuwait Fund for Arab Economic Development. It was suspended.²¹

Another loss suffered by India was **losses due to the mass evacuation** of the trapped Indians in Iraq and Kuwait. At the peak of the air lift, Air India was operating as many as 14 flights a day from Amman. Between 14.8 1990 and 10.10 1990 (419 flights) 105 222 persons and between 18.10 1990 and 02.11 1990), 31, 175 persons were evacuated. Around 6000 persons were evacuated by ships from Basakva via Dubai.²² The govt. Of India estimated the cost at Rs. 360 crores (Economic Survey. 1990-91 para 9.20 p.155). The ILO-ARTEP 1991 study did not take the losses into account.

²¹ H.R. Holla. Into Troubled Waters : India's BoP situation and Gulf crisis. "Economic and Political Weekly. Qot 20-27. 1990 p.2356-2357.

²² T. M. Thomas Isaac, "Economic Consequences of the Gulf crisis", A Study of India with Special reference to Kerala" in Gulf crisis and South Asia. Studies on the Economic impact edited by Piyasiri Wickramasera. UNDP /ILOARTEP. New Delhi 1993.

In 1990-91, India could not realise dues to the extent of Rs. 115 crores (\$ 64 million) under deffered payment arrangements and above Rs. 90 crores (\$ 50 million) under projects outside deffered payment arrangements. (Economic survey 1990-91 p.156). India, requesting the UN for assistance (UN Document S/21711 5 September 1990) stated that India had entered a differed payment Agreement with Iraq for then ongoing projects in Iraq of the US \$ 403 million (Rs. 725.4 crores) due to be paid by 1993, An amount of US \$ 85 million (Rs \$. 153 crores) was due to India in 1990 and supposed to transfer in the form of crude oil. With the imposition of sanctions India lost it. According to a statement, of the overseas construction council of India (OCCI) a payment of over \$965 million (1.737 crores) to Indian companies was pending from the Iraqi government. The estimate given by OCC consisted of \$500 million (Rs. 900 crores) due from the Iraqi government under the 1990 deffered payment agreement: retention money due to Indian companies and blocked currency assets. It did not include interest lost on delayed payments or claims as war damages to machinery equipments and men.

But the most significant impact arose from the fact that due to the sanctions supply of oil and petroleum was disrupted and India had to look for alternative sources and purchased at a much higher price. It had hurt the already fragile balance of payment position badly. The sanctions

deprived the world market of between 4.5 and 5.01 million barrels/day of oil.²³ that was a very significant quantitative loss as it constituted 7% of world daily consumption.²⁴ Prices of oil increased abruptly, oil prices which were about \$17 per barrel at the end of the July 1990 went up sharply and reached \$40 by the end of September. Spot market prices of major crude oils continued to show large swings in October oscillating between \$30 to 40\$ per barrel. Oil prices eased slightly in November and December with less volatility than before, ranging between \$25 and \$30 a barrel. In the last five months of 1990, the average spot market prices of the OPEC basket of seven crude was \$ 29.7 a barrel as compared to \$16.80 a barrel in the first seven months of the year. For the whole year, the average price was estimated at \$ 22.20 a barrel, representing an increase of 27% over that of 1989.²⁵ As Iraq and Kuwait supplied practically 45 per cent (as explained before) of total imports, the disruption of trade with Iraq and Kuwait due to the imposition of sanctions compelled Indian to rely heavily on spot market, purchase. As the prices at spot markets was much higher, from an average of Rs. 499 crores in the immediate pre-sanction period, POL imports rose to Rs. 1221 crores per month in the following six

²³ Robert Mabro, "The Impact of the gulf crisis on world oil and OPEC" International Journal, XLIX. Spring 1994.

²⁴ World Economy Survey. 1991 - chapter V. P.91. New York.

²⁵ World Economic Survey (1991) Chapter V. P.93. New York.

months. The estimate of additional foreign exchange of Rs. 3625 crores (\$2020 million).²⁶ Incurred in the import of oil. It was assumed in the estimation that in the absence of sanctions the average prices for April-July months would have prevailed over the rest of the year.

The consequences of a higher POL import bill (during 1990-91 it was estimated around Rs. 10,820 crore) as against Rs. 6273 crores for 1989-90; (Economic Survey 1990-91) and the failure of exports to keep pace was that the trade deficit rose to Rs. 15,142 crores in 1990-91 from 12,413 cores in 1989-90 on payment basis. (Eco. Survey, 1992). The current account deficit rose to Rs. 13088 crores in 1990-91 from Rs. 9824 crores in 1989-90.

These factors were partly responsible for the shortage of foreign exchange reserve. The foreign exchange reserves which stood at \$3.11 billion at the beginning of August 1990 shrank to \$896 million in mid - January. 1991, hardly enough to finance a month's imports.

Thus the case study gives us an in-depth knowledge about how the third states are affected, the sources of hardship and dimensions. The next chapter will deal with how the UN has responded to minimize the sufferings and to offer assistance to the third states.

²⁶ Economic survey 1990-91. p.55.

Chapter IV

Response, Loopholes; Suggestions and Proposals

The purpose of the chapter is to look at the response of the UN system: member states, international financial institutions, Regional Development Banks to the request made by the member states under Article 50,¹ in various cases of comprehensive mandatory sanctions. Analysing whether the responses are adequate or not; an examination of various proposals and suggestions made on how to minimise adverse effects on third states and offer assistance to them will also be done.

The measures taken by the UN so far in the exercise of sanctions demonstrate that hardly anything has been done to minimise adverse effects on third states. These measures directed towards minimising adverse effects are taken, before or during sanctions are imposed, to avert the avoidable losses likely to be suffered by third states. In that way, they are preventive in nature. The UN in its past experiences had done little even to assuage the sufferings and losses incurred by third states. The third states had not received adequate assistance to meet the challenges. Though various

¹ Article 50 reads, "If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a member of the UN or not which finds confronted with special economic problem arising from the carrying out of those measures shall have the right to consult the Security Council with regard to as solution of those problems.

proposals and suggestion have been made, the issues have got entangled in the conflict of interests between the donors and recipients. An in-depth analysis of past experiences will help us to substantiate the points.

The UN has till now imposed comprehensive mandatory sanction mainly on three cases: against Southern Rhodesia (1968-79), Iraq (1990-till date), Serbia-Montenegro (1992-96). The sanctions against South Africa (1977-1994) was not a comprehensive one, it was primarily arms embargo. Article 50 had been invoked in all the three cases of comprehensive mandatory sanctions.

The Case of Rhodesia

Though sanctions had been in force since 1966, it was the resolution 253 of the Security Council on 29 May 1968 which made sanctions comprehensive. The resolution itself accepted Zambia's problem and appealed members to assist Zambia to solve her special economic problems arising out of implementation of asanctions. But little assistance was received by Zambia. In a communication to the UN Secretary-General in 1968, the government of Zambia had reported:²

.... With regret that no UN member states or organization have offered Zambia assistance as a result of this resolution (viz. SC Resolution 253).

² UN Doc. S/8786/Add. 2-4. 10 October 1968. pp.34-38.

The Zambian government has had to bear all the costs with only a little help from the British government at the start of the emergency”.

The representatives of a number of African states felt that Zambia should be granted international assistance under Article 49 and Article 50 of the charter.³

After five years of imposition of comprehensive sanctions, the Security Council set up a special commission consisting of four members of the Security Council and assisted by a team of six UN experts.⁴ The commission was entrusted with the task of assessing the needs of Zambia in maintaining an alternative system of road, rail, air and sea communication for the normal flow of traffic. [Resolution 327 (1973)]. The mission after a thorough examination of Zambia’s hardship summed up its findings thus:

“Only adequate and timely assistance will make it possible for the economy of Zambia to continue to develop in a normal fashion.”⁵

The Security Council endorsed the assessment and conclusions of the special mission.⁶ It also appealed to all states for immediate technical, financial and material assistance and programmes concerned as well as the

³ Neera Chandhoka. *The Politics of UN Sanctions*, New Delhi, p.176.

⁴ Sc. Resolution. 326 (1973): The Security Council Adopted this resolution on 2 Feb. 1973 by 13 votes to Nil. With Britain and US abstaining.

⁵ UN Doc. S/0896/Rev. 6 Mach 1973.

⁶ UN Doc. SC resolution 328. 10 March 1973.

specialised agencies to assist Zambia in the fields identified in the report of the special mission. The Council also requested the economic and social council to consider periodically the question of economic assistance to Zambia.⁷

The Economic and Social council adopted between 1973 and 1979 - a series of resolutions on the question of assistance to Zambia in view of its special economic problems arising out of the implementation of the economic sanctions against Southern Rhodesia.⁸

The first consultative meeting on Zambia took place on 15 November 1973.⁹ During the meeting, the coordination for the UN assistance to Zambia, Sir Robert Jackson, then Under-Secretary General pointed out that the appeal launched by the Security Council and the Economic and Social Council had generated a good response, allowing capital costs for 1973 to be fully covered.

The General Assembly at its 28th Session adopted resolution 33/131 appealing for more contributions to Zambia and requested the Secretary General to maintain his efforts to generate maximum assistance. The

⁷ Security Council, Resolution, 329 10 March 1973.

⁸ Resolutions, 1766 (LIV) of 18 May 1973; 1998 (LV) of 24 July 1973; 1832 (LVI) of 8 May 1974; 1875 (LVII) of 16 July 1974; 1951 (LIX) of 22 July 1975; 2021 (LXI) of August 1976, etc.

⁹ UN Doc. A/48/573, S/26705, 8 November 1993, p.8 para 16.

General Assembly adopted further resolutions at its thirty-fourth to thirty-sixth session on the questions of assistance to Zambia.¹⁰

The International community responded positively to Zambian need only after 1973. The response came in the form of cash grants, grants-in-kind and soft loans. The international community in total offered Zambia just US \$100 million, although Zambia had suffered a loss of as much as US \$650 million.¹¹ The assistance offered was not at all adequate. The disruption of its trade and transport routes forced Zambia to re-open its Border with Rhodesia in 1978.

In Rhodesia cases, some other countries, namely Portugal and Malawi also appealed the UN under Article 50. In a letter dated 3 Feb. 1967,¹² the government of Malawi¹³ informed of the special economic problems faced by them. However, no specific action was taken by the Security Council on these requests.¹⁴

Mozambique in a telegram dated 10 march 1976 addressed to the President of the Security Council stated the serious economic consequences it had to face in implementing sanctions. The Security Council adopted

¹⁰ Ibid. no.9.

¹¹ UN Doc. E/5867, 27 July, 1976, p.6.

¹² Official Records of the Security Council. Twenty-Second year, Supplement for January, Feb. And March 1967, document S/7781, Znnex.11.

¹³ Ibid., 12.

¹⁴ UN Doc. A/48/573. S/26705. P.5, para.8.

resolution 386 (1976) took note of its urgent and special economic needs appealed to all states to provide immediate financial, technical and material assistance and requested Secretary General to organise all forms of assistance. Pursuant to the request contained in resolution 386 (1976), secretary-general dispatched a mission headed by Mr. A.A. Farah, Assistant Secretary-General for special political questions, to Mozambique to assess the situation. The report of the mission dated 30 April, 1976¹⁵ contained a comprehensive assessment of the estimated needs of Mozambique.

But it was seen that except passing resolutions, nothing substantial was done to assuage their sufferings. But the problem of third states emerged in a much large scale in the following case of comprehensive mandatory sanctions.

Response in Case of Sanction on Iraq

By its resolution 661 (1991) of 6 August 1991, the Security Council acting under Chapter VII of the Charter, imposed mandatory sanctions against Iraq because of Iraqi unlawful occupation of Kuwait. The resolution did not mention the article 50 procedure.¹⁶ Moreover, the Security Council did not take any measures to avert adverse effects on third states.

¹⁵ UN Doc. E/5281. Add.1.

¹⁶ Ibid.1.

Subsequently, in the received communications from 21 states, namely Bangladesh (S/21856); Bulgaria (S/21576); the former Czechoslovakia (S/21750); Djibouti (S/22209); India (S/21711); Jordan (S/21620); Lebanon (S/21686); Mauritius (S/21818); Pakistan (S/21776); the Philippines (S/21712); Poland (S/21808); Romania (S/21643); the Seychelles (S/21891); Sri Lanka (S/21710); the Sudan (S/2190); the Syrian Arab Republic (S/21193); Tunisia (S/21649); Uruguay (S/21618); Vietnam (S/21821); Yemen (S/21748) and former Yugoslavia (S/21618) that requested consultation with the Council stating special economic problem in implementing Resolution 661 of 1991.

The Security Council entrusted its committee established by resolution 661 (1990)¹⁷ with the task of examining request for assistance under the provision of Article 50¹⁸ and making recommendation to the President of the Security Council. The President of the Security Council by letter dated 21 December 1990 (S/22033); informed the Secretary General of the recommendations received from the committee. The secretary-General appealed to all states, to UN agencies; international financial institutions and regional development banks to render immediate technical, financial and material assistance.

¹⁷ UN Doc. S/22382, Dated 22 March 1991, para.4.

¹⁸ Security Council Resolution 669 of 24 September 1990.

But no substantial package of assistance was offered. Except the one sent to Jordan no fact finding mission was set up. The Security Council committee requested the Secretary General to undertake in cooperation with the government of Jordan, an assessment of the situation and provide suggestions for appropriate remedial measures of the problems arising from measures undertaken by Jordan to comply with resolution 661 (1990). A mission was sent under secretary-general special representative Mr. Jean Ripert and the secretary-general submitted the report to the Security Council (S/21938). Their report called for urgent remedial measures in critical areas like debt, relief, financial assistance, protection of ongoing projects, covering of outstanding evacuee expenses and opening up of alternative export markets as well as coordination of international efforts to assist Jordan.

The representatives of 21 states, mentioned above, submitted to the President of the Security Council a collective memorandum in which they stated that¹⁹

“The problems affecting these countries persist and in certain respects have been aggravated which the appeals launched pursuant to the recommendations of the Security Council committee and addressed to all

¹⁹ UN Doc. S/22382, 22 March 1991. Para 4.

concerned by the secretary-general have not evoked response commensurate with the urgent needs of the affected countries.

In response of the memorandum, at the informal consultations held on 27 March 1991, the members of the Security Council asked the Secretary-General to Communicate to them the response of the international community. Actually various countries informed The Secretary General of the specific assistance provided by them- Austria, Australia, Canada (S/22713), Belgium (S/22537), Denmark (S/22538), France, German, Greece, Ireland, Italy, Japan (S22368), Liechtenstein, Luxembourg, Luxembourg on behalf of the European community and its 12 members (S/22542), Netherlands (S/22553), New Zealand (S/22296), Norway, Portugal, Republic of Korean, Saudi Arabia, Spain, Sweden (S/22586), Switzerland, UK, US and former USSR.

An inquiry into the letters shows that a major portion of economic assistance was given mainly to three front-line states- Jordan, Egypt, Turkey. The Netherlands had provided US018 million each to Egypt, Turkey and Jordan in special bilateral economic assistance. It also contributed US09 million in humanitarian aid.²⁰ The European Community provided 898.5 million ecus of out of which 500 million ecus

²⁰ UN Doc. S/22553, 29 April 1991.

was offered as financial assistance to front-line countries Egypt, Jordan, Turkey. It contributed 110 million ecuas as humanitarian assistance for the victims of the Gulf conflict.²¹ Belgium stated that it contributed 3.13 percent (\$21 million) of total EEC financial assistance. Moreover, it offered government to government loans of US \$9 million, US \$6 Million, US \$9 billion respectively to Turkey, Jordan and Egypt.²² It also established a Red Cross Reception camp for refugees in Syria. Luxembourg besides giving economic assistance to Jordan. Turkey, Egypt offered emergency humanitarian assistance for Bangladesh (10 million Luxf), and for Israel (15 million Luxf).²³ Canadian Prime Minister Mulroney announced a US \$77.5 million package of economic and humanitarian assistance. Egypt was offered \$26 million, Jordan \$26.65 million and Turkey \$5 million. \$ 19.85 million was offered as humanitarian assistance. In addition, Canada provided \$ 13 million in ODA debt forgiveness for Egypt and a package of aid and trade measure for Turkey valued at \$19 million.²⁴ Denmark besides its contribution to EC's package, provided bi-lateral contribution to Egypt (US \$ 18.6 million) and Turkey (US \$4.3 million).²⁵

²¹ UN Doc. S/22542. 26 April 1991.

²² UN Doc. S/22537. 20 May 1991.

²³ UN Doc. S/22541. 16 April 1991.

²⁴ UN Doc. S/22713. 17 June 1991.

²⁵ UN Doc S/22548. 29 April 1991.

At its 2985th meeting on 29 April 1991, the president of the Security Council made a statement in connection with the council's consideration of the item entitled "The situation between Iraq and Kuwait (S/22548) taking note of the replies received from the member states as well as from the president of World Bank and the Managing Director of the IMF. He made a solemn appeal to respond positively and specially.²⁶

By May 10, 1991, 'front-line states' Egypt, Jordan and Turkey had received pledges of \$11.7 billion and contributions of \$6 billion disbursed in the form of grants or concessionary loans. Eight other countries (Bangladesh, Djibouti, Lebanon, Morocco, Pakistan, Somalia, Syria and Tunisia) had received pledges of \$4.4 billion and contribution of \$2.9 billion. Other affected countries such as India and Yemen received nothing although the former's losses were estimated by the NGO group at \$1.6 billion and the latter's at \$1.7 billion.²⁷

Some support to oil-importing developing countries was provided by oil-exporting countries. OPEC member countries recommended in a meeting of August 1990 that additional supplies from OPEC should be primarily directed to developing countries. Nigeria pledged to supply oil at

²⁶ UN Doc. S/22548. 29 April 1991

²⁷ Cited in Margaret Doxey's Paper Titled, "Assistance to Non-Target state affected by the application of multilateral Economic Sanctions, Problems and Proposals" presented in the adhoc expert group meeting and implementation provision of the UN Charter relating to assistance to third states.

favourable prices to several African countries. Mexico and Venezuela extended the San Jose accord and agreed to sell oil on concessional terms to five central American countries (Costa Rica: EL Salvador: Guetamal: Honduras and Nicargoa).²⁸

The Gulf crisis financial coordination group with membership from the G-7, EC, South Korea and the Gulf States coordinated assistance for the affected countries, especially for 'front-line states', Egpt, Turkey and Jordan.

The International monetary Fund responded quickly. It did not introduce any permanent new credit instruments to deal with the effects but rather adopted its existing instruments and introduced as temporary window to finance countries suffered from rises in oil import costs.

In December 1990, the IMF's Executive Board adopted a services of measures:²⁹

- (1) Introduction of a temporary oil element into the compensatory and contingency financing facility (CCFF) that compensated members for rises in the cost of their imports of crude petroleum, petroleum products and natural gas.

²⁸ USSR provided additional oil delivery to India and Bulgeria as compensation for embargoed Iraqi oil.

²⁹ David M. Cheney. "Dealing with the Unexpected. The IMF's response to the Middle East Crisis. Washington DC 1991.

- (2) Quicker access to compensatory credit.
- (3) A broad range of services eligible for compensatory financing under CCFF.
- (4) Added flexibility in obtaining contingency financing in the framework of IMF arrangements for members adopting corrective policies.
- (5) Increased or accelerated disbursement of financing to members pursuing IMF- approved policies aiming at correcting the balance of payment problems under stand-by, extended or ESAF arrangements.
- (6) Increased flexibility regarding the availability of low cost financing extended to the poorer countries adopting comprehensive policy reforms under the ESAF.
- (7) Relaxation of some limits on access to IMF financing through the end of 1991.

The IMF provided funds but as it provided general balance of payment support, it is not possible to identify separately the assistance amounts falling strictly under the provisions of Art.50. But it is seen that till the end of 1991, eight countries out of 21 countries requested for assistance (Bangladesh, Bulgaria, former Czechoslovakia, India, Philippines, Poland, Romania and Uruguay) received from the fund total

financial commitments of SDR 37 billion in support of their adjustment efforts. In particular drawings for a total of SDR 1.9 billion were approved under CCFF for six affected countries of the group of 21 countries (Bulgaria, Czechoslovakia, India, Philippines, Poland, Romania).³⁰ India drew Rs. 1177 crore (US \$660 million) from the reserve tranche during July-September 1990. In January 1991, the government made a drawing of Rs. 1884 crore (\$ 1.025 billion) under the compensatory and contingency financing facility (CCEF) and a drawing of Rs.1450 crores under the first credit tranche arrangements. On July 21 and September 9 also government of India made a drawing of Rs. 570 crores and Rs. 1654 crores respectively under the CCFF.³¹

The World Bank took a number of prompt action to launch an assistance programme to help the countries affected by sanctions. These included:³²

- (a) Preparation of emergency-assistance operations to help countries to resettle and integrate returning workers and improve infrastructure and social services.
- (b) Provision of policy advice.

³⁰ UN Doc. A/48/573. S/26705. 8 Nov. 1993, p.40.

³¹ Economic Survey, Ministry of Finance, 1991-92, p.4

³² Ibid., 29, p.39

- (c) Use of existing mechanisms such as consultative groups and the special programme of assistance to Africa, to help to mobilise and coordinate support for affected countries.
- (d) Plans to accelerate disbursements, advance lending operations, supplement ongoing operations and increase lending for structural and sectoral adjustments.

The Gulf Assistance Programme, set out by the World Bank in November 1990, led to an increase in fiscal year 1991 in

International Development Association (IDA) lending of special drawing rights (SDR) US\$ 314 million over the previously planned IDA Commitments.³³

Response of Regional Development Bank

On the regional level, financial and technical assistance to the affected countries was provided by the regional Development Banks. The African Development Bank provided in 1991-92 a total of \$818 million in grants and soft loans to five affected countries of the region (Djibouti, Mauritania, Seychelles, Sudan and Tunisia) and financed rapid disbursement programmes amounting to \$191 million for Mauritania, Sudan and Tunisia. The response of Asian Development Bank comprised

³³ Ibid. 29, p.39.

the financing of key production inputs (diesel, oil and fertilisers) in its five member countries (Bangladesh, India, Nepal, Pakistan and Sri Lanka), under a total outlay of \$284.5 million. Since 15 April 1991, when it became operational, EBRD (European Bank for Reconstruction and Development) approved lending to four countries (Bulgaria, Romania, Poland, Czechoslovakia). Within its operational framework, the Islamic Development Bank extended assistance amounting to almost \$773 million spread over 11 affected countries including Bangladesh, Jordan, Pakistan and the Sudan.³⁴

Other specialised agencies besides IMF and World Bank like International Labour Organization: Food and Agricultural Organization, World Health Organization, GATT responded. United Nations Sectoral Entities- UNDP, UNEP, UNHRC, etc also responded.³⁵ Most of them undertook emergency measures and launched special assistance projects with a view to mitigating the immediate hardships encountered and urgent needs faced by those affected countries. Among them UNDP did tremendous job. It established the Gulf Task Force and allocated up to \$4 million from its special programme resource (SPR) to assist countries affected. The special programme was to fund activities in the following five

³⁴ Ibid. 28, p.40.

³⁵ For details see UN Doc A/48/573. S/26705. 8 Nov. 1993.

major areas of need: immediate humanitarian needs, human development and returnees, rehabilitation of institution and infrastructure, management of the economic impact of the crisis and environmental recovery. Assistance in the strengthening of government labour and migration polices and reintegration of returnees was also provided under two regional projects executed by ILO: Regional Arab migration (AB/91/008) with \$ 150,000 allocated in support of Egypt, ordan, Yemen, the Sudan, Leanon and Regional Asian Migration (PAS/88/029) with \$350.000 added for Bangladesh, India, Pakistan the Philippines, Sri Lanka and Vietnam.³⁶

The Case of Serbia-Montenegro

Comprehensive economic sanctions were imposed on Serbia-Montenegro by resolution 757 of May 1992³⁷ and tightened in Resolution 820 of 17 April, 1993.

Resolution 757 recalled the rights of states to initiate consultation with the Security Council under Article 50. Accordingly, seven states in the region had applied for consultation Albania (S/26040), Romania (SS/24142. Add.1 and S/25207), Slovakia (S/26648), the former Yugoslav

³⁶ Ibid.28.

³⁷ An Arms Embargo had been imposed on the Whole of Yugoslavia by Resolution 713 of 25 September 1991.

Republic of Macedonia (S/2640. Add.2 Annex.II) and Ukraine (S/25630, S/25636, S/25682). Major complaints were that sanctions interfered with vital communication and transport link in South East Europe.

As it happened in Iraq's case, here too, appeal was made to member states, IFIs, regional development Banks, UN system to offer assistance to the third states confronted with special economic problems arising out of implementation of resolution 757.

The secretary-general had received replies from 19 states. Most of the developed countries (Belgium, Denmark, Liechtenstein, the Netherlands, Norway, Switzerland and UK) referred to the existing mechanisms and ongoing programmes of technical and financial assistance at the bilateral and or multilatera levels.³⁸ Italy and Switzerland suggested that a comprehensive debate at the multilateral level should be required in order to arrive at a carefully- thought-out and agreed upon solution.³⁹

Netherlands, Norway and Switzerland communicated specific informations. The Netherlands had provided in 1993 to Albania (4.75 million Netherlands guilders), Bulgeria (NGL 5.5 million, Hungary (NGL 9 million), Romania (NGL 8 million and Ukraine (NGL 12 million), Norway recounted the allocation by its government of Nkr. 3.5 million to alleviate

³⁸ UN Doc.A/49/356 of 9 September 1994, p.12, para 35 and 36.

³⁹ Ibid., para 35.

the special economic problems of Albania. Switzerland reported that its government had earmarked a sum of SWF 15 million to finance by means of grants a no, a number of projects of the EBRD and the World Bank in Albania, mainly in the energy and telecommunication system.

A total of 23 organisations of the UN system had responded.⁴⁰ Most of them contemplated intensifying within their respective mandates and available financial resources, their ongoing assistance activities and technical co-operation programmes in the countries concerned.

An innovative feature of the Yugoslav case was the dispatch of sanctions Assistance Mission (SAMS) to the seven countries in the region. The SAMS system involved professional customs offices from OSCE countries giving on-the-ground advice time helping to facilitate legitimate trade at border points with Serbia and Montenegro.⁴¹

The study of the process of imposition of sanctions and the response shown that nothing has been done to minimise the effects on third states. Prior study of the probable effects and prior consultation with potential sufferers are not exercised. So no preventive measures are taken. Whatever little has been done is done by offering assistance. In the Iraq case. The original resolution 661 (1990) did not mention the Article 50 procedure.

⁴⁰ For details see UN Doc. A/49/356. 9 Sep. 1994. p.14.

⁴¹ UN DOC. S/776/1996. 24 Sep. 1996.

The states and other agencies responded reluctantly. At the UN the Article 50 procedure led to nowhere. Sanctions committee both in Iraq and Serbia. Montenegro served as a postal station for requests and a launch pad for appeals through the Security Council.⁴² The donor countries and International financial Institutions often state continuation of existing programmes and arrangements, instead of launching or offering new ones. Sometimes, emergency programmes like CCFF are added but they are often of temporary nature. They hardly contribute much to solving long-term adverse effects. The IMF and the World Bank always argue that existing mechanism are adequate and oppose to the establishment of any permanent mechanism.

So measures taken are adhoc in nature. There is lack of permanent mechanism. The institutionalisation process of such response is yet to be started. That is why, there is considerable dependence on the political will of countries in a position to provide assistance or on the wish and the capacity of the IFI's to respond.⁴³ Moreover, there are certain practical problems being faced by international community. There is no standardised, comparable, mutually agreed methodology for assessing losses incurred by

⁴² Margaret Doxey. *United Nations Sanctions: Current Policy Issues*. Halifax. 1997. p.8.

⁴³ Report of the Secretary General prepared pursuant to the note by the President of the Security Council (S/25036) regarding the question of specular eco. Problems of states as a result of sanctions imposed under Chapter VII of the charter of the UN. P.47. Para 151. A/98/570. S/26705.

third states. Another problematic aspect-who is to bear the costs of providing assistance?

Within the UN system the issue of burden-sharing had now become quite salient and the General Assembly placed it on the agenda for its 48th session in 1993. The issue occupied a significant place in former secretary-general Boutros-Boutros Ghali's report. "An Agenda For Peace."⁴⁴ Debate has been fueled by consideration of the issue by the special committee. On the charter of the UN and the strengthening of the Role of the organisation (The charter Committee). The General Assembly receives an annual report from the Secretary - General on the implementation of Article 50. (A/49/33; A/50/33; A/51/33; A/52/33; A/53/33). But so far no substantial progress has been achieved and debate reveals different even divergent opinions. Proposals and suggestions put forward in debate include:

The proposals and suggestions have been divide into two brand categories:- by Margaret Doxey.⁴⁵ It appears the most appropriate categorisation because it clearly demarcates pre-and post sanctions measures proposals and suggestions which are advanced to exercise before sanctions are imposed or when they are on affect. They are preventive in

⁴⁴ UN DOC. A47/277- 5/24111.

⁴⁵ Ibid., 26. p.12.

nature so to say. They aim at minimising the effects of sanctions on third states.

- (1) Proposals and suggestions which advocate for remedial measures. They are mainly concerned about how to offer assistance to the third states affected by sanctions.

Even charter committee report “implementation of the provisions of the charter of the United Nations related to assistance to third states affected by the application of sanctions under chapter VII of the charter” follow a similar line of categorization.⁴⁶

- (2) Proposals and suggestion aimed at minimising effects on third states:-

One most debated and controversial proposal has been the prior study and consultation. It is argued (mostly by developing countries which are vulnerable) that assessment of potential impact of sanctions on third states and consultation with potentially affected states regarding the imposition of sanctions may go a long way in the direction of averting the avoidable hardships on third states.

The paper titled, “The Effects on Botswana: Lesotho: Swaziland and

⁴⁶ UN DOC. A/50/361. 22 August 1995.

Mozambique of sanctions imposed against South Africa.”⁴⁷ The General Assembly resolutions (50/51 of 11 Dec. 1995; 51/208 of 17 Dec. 1996; 52/162 of 15 Dec. 1997; 53/107 of 8 Dec. 1998) emphasize the need of consultation. Specially resolution 52/162 and resolution 53/107 invited the Security Council to consider the establishment of further mechanism or procedures as appropriate for consultation as early as possible under Article 50.

In “An Agenda For Peace”⁴⁸ the Secretary-general put emphasis on the need of consultation. Subsequently, in the ‘Supplement To An Agenda For Peace’ (A/50/60- s/1995/1 para 75) the Secretary General suggested the establishment of a mechanism to carry out certain functions some of them are:

- (a) to assess at the request of the Security Council and before sanctions are imposed - their potential impact on the target state and on third states.
- (b) to monitor application of sanctions.

⁴⁷ UN DOC. A/Conf. 107/1:26 March 1981.

⁴⁸ Ibid., 42.

- (c) to measure their effects in order to enable the Security Council to fine-tune them with a view to maximizing their political impact and minimising collateral damages.

But developed countries which usually take initiative in imposing sanctions oppose to the idea of prior study and consultation. It is argued that sensitive issues within sanctions mandate can be discussed appropriately only in close door meetings. Some members are concerned that efforts to organise sanctions speeding and effectively could be paralysed. If the need to compensate for special special costs has to be met in advance.

No doubt, in certain cases the Security Council may find it difficult to engage in prior consultation as it happened in Iraq's case where the Security Council had to act instantly. But in normal circumstances, where discussions are taken gradually, prior study and consultation is desirable. The establishment of a particular permanent mechanism will provide a platform for better consultation.

Exemption from sanctions regime has been a matter under consideration. The report of the charter committee (A/50/361-of 22 August 1995) argued for it. It was suggested that the Security Council might decide to allow some exemptions from the application of sanctions in favour of states most likely to be affected by their implication, provided that

exemptions did not run counter to the object of the sanctions.⁴⁹ Margaret Doxey argued consideration should be given by the Security Council to partial or total exemptions for certain cases.⁵⁰

The Security Council has made provisions for limited exemptions. In the case of sanctions against Haiti, Trade in information material was exempted.⁵¹ In case of Iraq, certain exemptions were allowed to Jordan.⁵²

It should be used in future also, on a case - by-case basis and under appropriate form of monitoring or control. Because sometimes, exemption of one country or a sector of the economy from sanctions regime considerably minimise effects on third states without hampering the effectiveness of overall sanctions regime.

The adoption of targeted measures has been proposed to minimise adverse effects upon third states.⁵³ Targeted sanctions which hit rulers and elites which sparing the William population also case problems for third states.

⁴⁹ Ibid., 26. Para. 30.

⁵⁰ Ibid. 26. p.12.

⁵¹ Security Council Resolution 917 of May 6, 1999.

⁵² Security Council Resolution 692 of May 20, 1999.

⁵³ Ibid., 26.

Targeted sanctions such as personal assets freezes: visa-based travel restrictions exclusion from international meetings deprive rulers and elites of important values. They are without any unintended consequences. They donot hurt the masses of the target states, at the same time they are without damaging effects on the economics of neighbouring states or major trade partners.

Proposals and suggestions on the provisions of assistance to third states affected of sanctions:

The assistance provided by member states. UN system: International financial institution Regional Development Banks is not sufficient. So for its proper implementation the issue must be addressed properly and bottlenecks must be eliminated. Various proposals and suggestion chance been made keeping in mind the factors:

The charter committee mentions a proper guidelines to be followed.⁵⁴ The formulation of a proper guidelines for the consideration of application for assistance is essential. The charter committee suggests:

- (a) The right to approach the Security Council for assistance.
- (b) Consideration without exception and undue delay of all applications for assistance under Art. 50.

⁵⁴ Ibid., 43. Para 39.

- (c) rendering non-preferential and fair treatment to all application.
- (d) inviting the affected members to its meetings and to the meetings of its subsidiary bodies.
- (e) Procedure and methodology for determining and evaluating losses as a result of the imposition of sanctions.⁵⁵

In this point, there is no much conflict between the view expressed by the developing countries and those expressed by the developed countries which are donors. Both of them accept the need for a proper guidelines. Specially there is near unanimity on the need for a standard, comparable and generally agreed upon methodology.

The issue of evolving a common methodology is of paramount importance. Due to the absence of a standard, comparable and mutually agreed methodology each state estimates its losses and costs following its own methodology. So available evaluation varies substantially in timing coverage and scope which creates problems in offering assistance. General Assembly has adopted resolutions (50/51 of 11 Dec. 1995 para 4(6); 51/208 of 17 Dec. 1996 para 5; 52/162 of 15 Dec. 1997 para 3; 53/107 of 8 Dec. 1998 para 4) requesting Secretary General to take initiative in the direction of developing appropriate methodology. The Secretary - General invited

⁵⁵ Ibid., 43. Para 39.

World Bank; International Monetary Fund; UNCTAD; to provide him with ideas and suggestions on how to develop and prepare such a methodology.

The world Bank expressed the view that it might be difficult to construct a general methodology to evaluate the impact of sanctions on neighbouring states. Because there are many channels along which foreign trade and local commerce can flow and so too many variables will have to be taken into account.⁵⁶

The International Monetary Fund forwarded a paper entitled 'Impact of implementing UN sanctions against Federal Republic of Yugoslavia (Serbia and Montenegro).'⁵⁷ Where along with other issues, it included a discussion of some relevant methodological issues.

The Secretary General also submitted its report (A/51/317 paras 16-34) incorporating the issues. It was mentioned that conceptually only incremental costs arising from the implementation of sanctions should be included in the estimates (para 28); In principle estimates should cover both the direct, as well as indirect effects. (Ibid. para 27).

There are divergent views but, in principle there is a general agreement that an accurate and transparent impact assessment based on a

⁵⁶ UN DOC. A/52/308 28 August 1997.

⁵⁷ The paper was prepared by the staff of the Fund and was first transmitted to the UN secretariat in early 1995.

common approach is essential both to design the appropriate domestic policy response and to seek adequate external assistance in coping with the sideeffects of sanctions. More precise and detailed estimation is needed and the states using article 50 procedure should be required to present their claims in a standardised format so that they can be indeed accurately and in comparative terms.⁵⁸ But unfortunately no substantive inter-governmental or inter-agency discussion on methodology of impact assessment has so far not been held.

There has been a proposal for the establishment of a trust Fund. The idea of a Fund was not new. It found expression for instance in the establishment of global environment facility in 1991. A communiqué issued by the movement of non-aligned countries at New Delhi proposed a Trust Fund be established to assist third states affected by the imposition of sanctions. The establishment of such fund was mentioned in General Assembly Resolution 47/120B. The working paper submitted by developing countries (A/Ac.182/L.79. Operative para 1) on the implementation of the provisions of the charter of UN related to assistance to third states affected by the implementation of sanctions under chapter VII of the charter also stated for the establishment of a Trust Fund.

⁵⁸ Margaret Doxey 'International Sanctions in Contemporary Perspectives'. 2nd Edition. London. New York. 1996. p.81.

Here, the conflict between views expressed by vulnerable developing countries and those by donor countries and International Financial Institutions reveals most clearly. Most of the developing countries view it as one of the viable steps to be taken immediately towards a solution to the problem of assistance to third states. But others have difficulty of principles with the idea. In addition, they find it impractical. They argued that it is the responsibility of every member to respect the basic principle of the charter and that there is an unqualified obligation to apply mandatory sanctions. They also point out that the concept of compensation for any consequent economic damages is not found in the charter. Yet they accept the need to assist. But instead of establishing fund, they argue existing mechanisms and arrangements can do it.

Thus it is seen that international community has done little for third states affected by sanctions. The donor countries are reluctant to share the burden and costs. Recommendations about burden-sharing raise the difficulty of reconciling the pressure for machinery and eventual compensation with the unwillingness of those govt. Who would inevitably be called upon to foot the bill to make any advance commitments.⁵⁹ So there is no possibility of initiating any radical measures-like establishment of fund in near future. But issues of equity and efficacy are at state in this

⁵⁹ Ibid., 42. p.10.

context. The donor countries should understand the problems faced by third states. Failure to make some constructive moves on this question is likely to detract from the future effectiveness of sanctions.⁶⁰

⁶⁰ Ibid., 26. p.12.

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