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ON THE NIGHT OF IRAQ'S INVASION OF KUWAIT, immediate military retaliation was not possible. Instead, it was decided to impose strong sanctions. The implementation of these sanctions highlighted tremendously effective inter-agency and multilateral diplomacy that was perhaps unparalleled before the Gulf crisis. The complexity of the issues also demonstrated the constructive use of expert committees as an effective tool for crisis management.

Between 10 p.m. and midnight on August 3, 1990,

Mechanics of Diplomacy

THE ABCS OF SANCTIONS

BY LARRY ROEDER JR.

Deputy Assistant Secretary of State Christopher G. Hankin, the deputy secretary of the Treasury, the director of the Office of Foreign Assets Control, the president's Chief Counsel G. Boyden Gray, and I gathered with others in the White House situation room to hammer out the first two presidential executive orders of the war, a cut-off of trade with Iraq and occupied Kuwait and a freezing of Iraqi and Kuwaiti government assets. These were followed a few days later by two more orders essentially implementing UN Security Council actions. In part, the intent was to punish Iraq, but the measures were also designed to protect Kuwaiti government assets from being plundered. This was important, because the war was less an effort to redress a boundary dispute than it was an old-fashioned raid by 20th-century vandals.

As the days rolled on and Hussein toyed with the West, Kuwait's rape became more apparent and the possibility of war increasingly real. How could it be otherwise, when tanks were blowing up banks, children were tossed out of hospitals, and innocent civilians were summarily executed and tortured? That war would come before March was hardly in question because of weather considerations and the soon-to-begin Islamic holy days; in the meantime, every diplomatic effort was made to bring Saddam Hussein to his senses. These efforts included the president's use of a series of binding UN Security Council resolutions, coupled with an unequivocal threat of force.

The president's legal authority to interfere with trade in an emergency is invested in the International Emergency Economic Powers Act, or IEEPA. In essence, all U.S. trade with Iraq and Kuwait ceased, except as allowed by Treasury Department license. General licenses allow certain classes of transactions to take place, such as the donation of medicine. Specific licenses are used for individual transactions.

I was involved in two different aspects of the program. As a sanctions expert, I sat on the "inter-agency committee" chaired by the Economic Bureau. This body was established early on by Under Secretary Robert Kimmitt as the principal organ for developing and coordinating our sanctions policy. It still exists and is made up of representatives from Treasury, Defense, Commerce, Agriculture, and any other agency or State Department bureau that might have a relevant role. This forum decides what kind of license ought to be granted and how U.S. and international sanctions should be enforced. On a weekly basis, or more often as needed, all of the committee members discuss the problems they face and their suggestions for solutions. This enables those charged with implementing sanctions to coordinate with counterparts in other departments and agencies. This inter-agency committee of experts and policy-makers who could make quick decisions about sanctions was highly effective in managing fast-moving events, first with the war effort and now with the Kurdish rescue operation.

I was charged with coordinating determinations on possible sanctions violations where maritime interdiction took place, and in that capacity worked with experts from Maritime Affairs, the Office of the Legal Adviser, and Near Eastern and South Asian Affairs to halt all cargo other than medicine headed for Iraq, principally via the coalition naval forces. This involved coordinating decisions from long distance. A naval vessel can easily prevent civilian ships from going from point A to point B, but monitoring trade into Iraq via Jordan was more difficult. Press reports made it clear that some cargo entering Aqaba was making it to Iraq, but how to stop

contraband without hindering legitimate trade? Two problems quickly emerged.

One issue was documentation. Because shipping requirements vary from country to country, it wasn't immediately clear what we should require to discern what was legitimate cargo. Initial requirements asked for documentation not normally used by many civilian carriers, and so some ships were turned back that probably didn't really pose a threat to peace, in some cases carrying nothing more than chickens and sheep for domestic Jordanian consumption. The issue was eventually resolved through a tortuous dialogue among the Gulf forces, State, the Pentagon, and maritime experts outside the government. In essence, each party blended its policy and security objectives with what experts said was legal or possible. Differences were then ironed out in the "inter-agency committee." The committee was savvy enough not to interfere in naval operations beyond the narrow band of the mandate.

The other problem was "inaccessible cargo." Sheep and chickens are accessible enough, but not so container vessels and lash ships. For reasons of economics, safety, and weight distribution, containers are often placed so as to make it impossible to inspect a vessel at sea and be certain that contraband is not on board. Thus, some ships had to turn around until they could be inspected at a friendly port or their cargo could be shifted. This caused enormous shipping delays and demurrage costs to the carriers, and when coupled with delays caused by documentation problems and the fact that the Gulf was halfway around the world and numerous time zones away, the port of Aqaba was nearly closed down, and with it, the Jordanian economy. We are still working on ways to resolve this issue, basically seeking a balance between a carrier's need to conduct legitimate business and our need to keep the clamps on shipments of contraband to Iraq. No one model works here, so we often have to work the issue ship by ship.

Some of the ship problems resulted from a determination to "let the generals fight the war." Even after we cleared statements of policy with Defense Department staff for distribution to the Gulf and the world, the Department of Defense had to send its own cable "requesting" the Gulf to implement our cable. Part of the Defense cable would contain operational suggestions on implementation that might unintentionally diminish the original message. While this was innocent and disputes often reflected legitimate Gulf concerns, a better clearance and message dissemination process was needed. We would have benefited from a maritime committee set up in advance of hostilities and made up of representatives from the Gulf, Washington agencies, and industry. This would have handled discussion with field commanders without hindering operational effectiveness.

In any future conflict involving the interplay of

sanctions administration and military objectives, I would place a representative of the expeditionary force on the inter-agency sanctions committee and any specialized committees, such as a maritime committee, and then clear instruction cables with the committee. Once cleared, they become the rule, unless operational events dictate otherwise. There would be no second implementation cables, no second guessing. This would ensure clarity of



"Sooner or Later, you must learn how to fly."

instructions and input from all interested parties.

A committee process may frighten field commanders, who remember a time when they were restrained from hitting a hot target without permission from Washington. But a fast-track committee of experts and affected parties would ensure that operational needs, as seen by the commander and by Washington, are properly handled. And let it be clear, the committee isn't designed to tell the field whom to attack. Rather, it should be seen, at least in the naval context, as a committee of experts who are assisting the sanctions process and, in the larger context, as a committee of decision-makers who can quickly design policy goals and solutions. ■

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