Economic Sanctions and Regime Change

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Much of the media coverage surrounding Washington’s withdrawal from the Iran nuclear deal (the Joint Comprehensive Plan of Action ) has linked the consequent re-imposition of US sanctions to the objective of regime change, citing public statements by some senior members of the Trump administration in the past – notably those by National Security Adviser John Bolton. More recently, however, Bolton has denied that regime change is the objective. Secretary of State Pompeo, moreover, has also recently declared that the objective is not regime change but rather a means of denying the Iranian government revenue to pursue its regional interventions. Assuming that these more recent statements are not a smoke screen, do they suggest that there has been some reappraisal of regime change as an acceptable objective of sanctions?

Since the Second World War national and multilateral authorities have increasingly resorted to sanctions as a tool of international relations, a means of producing desired outcomes in international affairs short of outright conflict. The UN Security Council has defined the objectives of sanctions: The Security Council has applied sanctions to support peaceful transitions, deter non-constitutional changes, constrain terrorism, protect human rights and promote non-proliferation. Similarly , the objectives attached to the application of sanctions by the European Union have been set out clearly: The declared purpose of EU sanctions is to uphold the international security order as well as defending human rights and democracy standards, by encouraging targeted countries to change their behaviour. The US Congressional Research Service, reporting on legislation in the 106th congress, describes the purpose of economic sanctions thus: Economic sanctions are coercive measures imposed by one country, or coalition of countries, against another country, its government or individual entities therein, to bring about a change in behaviour or policies. In the

United Kingdom, a House of Lords Committee – that on the European Union – stated in its 11th report of the 2016-2017 session that ‘EU sanctions serve an important foreign policy objective in persuading States and regimes to change behaviour’. None of those authorities cites regime change as a possible end purpose of sanctions, unless the UN’s ‘peaceful transitions’ is code for regime change.

Although the authorities quoted above do not explicitly cite the use of economic sanctions to achieve regime change, is it definitively forbidden? Article 41 of the United Nations charter certainly permits the Security Council to decide on measures including ‘the complete or partial interruption of economic relations’ as a means of maintaining or restoring international peace and security which could be construed to include regime change as an end to that means, if necessary. Indeed, UN Security Council Resolution 253 levied sanctions on South Rhodesia with the ultimate purpose of bringing about regime change in that country, citing it as a threat to international peace and security. In that case, the application of sanctions was designed to achieve ‘peaceful transition’, but the legitimacy of the action was guaranteed by the unanimity of a security council resolution.

Notwithstanding the Trump administration’s denials that regime change is the objective of sanctions on Iran, at least one Act of Congress plainly has as its objective regime change. Thus, the Helms Burton act - the Cuban Liberty and Democratic solidarity (Libertad) act of 1996 - incorporating economic sanctions on Cuba and on countries trading with Cuba sets out its objectives as

- to assist the Cuban people in regaining their freedom and prosperity, as well as in joining the community of democratic countries that are flourishing in the Western Hemisphere;

- to provide a policy framework for United States support to the Cuban people in response to the formation of a transition government or a democratically elected government in Cuba

These objectives plainly amount to regime change in all but name.

In contrast, the Iran Sanctions Act of 1996 sets out as its objectives the prevention of Iran obtaining weapons of mass destruction or committing acts of terrorism. Later amendments to that act extend the purposes to address domestic human rights issues. But, unlike the Helms-Burton act on Cuba, there is no claim that the internal regime in Iran should change. The scope of the relevant existing congressional act therefore does not include regime change.

Is it likely that the Trump administration has cautiously refrained from any suggestion that the objective might be regime change because it might exceed the intention of the act passed by Congress? Not necessarily. On a number of occasions, various presidents have approved military action – for instance in Libya and the Balkans – apparently in contravention of some of the provisions of the 1973 War Powers Act without any backlash from congress. Nor would the

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present administration fear any action from the international community, having rejected an international court of justice provisional ruling on its Iran sanctions. Experienced Iran watchers are pessimistic and believe that behind the denials, the real intention is to bring down the regime in Iran.

An alternative explanation for the recent denials may lie in Trump’s repeatedly declared willingness to negotiate with Tehran. It is difficult to see how Washington could successfully negotiate with any regime it was avowedly seeking to overthrow. Regime change might take second place to ‘closing the deal.’ And if the deal were to lead to significant changes in behaviour – of which Iran’s attitude to Israel would appear to be Washington’s prime concern - it would be as good as regime change as far as the Trump administration would be concerned.

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