



The road taken: the institutionalization of economic sanctions as an instrument at service of international collective security

O caminho tomado: a institucionalização das sanções econômicas como um instrumento a serviço da segurança coletiva internacional

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Abstract

This paper addresses the institutionalization of multilateral economic sanctions from a historical perspective, aiming at explaining *when*, *why* and *how* economic sanctions became an instrument of deterrence and coercion in the toolbox of collective security. First, it is shown that a new concern emerged in the Hague Conferences, in which states began to institutionalize international arbitration as a pacific mean to solve international disputes: how to enforce arbitral sentences in an anarchic international system? Economic sanctions were then envisioned as an eventual remedy to pressure recalcitrant states into complying with the terms of the sentences. Second, the paper describes the process that resulted in economic sanctions becoming autonomous deterrence and coercion tool in the Covenant of the League of Nations, showing the liberal-idealist framework that shaped it, the expectations surrounding economic sanctions and the cases in which they have been applied. Finally, it describes the realist ideas that influenced the creation of the United Nations, whose Charter lists economic sanctions as an instrument to be used in the collective security framework but at that time less prominently than the use of force.

Keywords: economic sanctions; collective security; the Hague Conferences; League of Nations; United Nations.

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Resumo

Este artigo traça a institucionalização das sanções econômicas multilaterais a partir de uma perspectiva histórica, com o objetivo de explicar *quando, por que e como* as sanções econômicas se tornaram um instrumento de dissuasão e coerção a serviço da segurança coletiva. Para tanto, primeiro demonstra-se que uma nova preocupação emergiu das Conferências de Haia, quando os Estados começaram a institucionalizar a arbitragem internacional: como executar essas sentenças em um sistema internacional anárquico? É neste momento que as sanções econômicas passam a ser vistas como um eventual remédio para pressionar o Estado recalcitrante em cumprir com os termos de uma sentença desfavorável. Em seguida descreve-se o processo que resultou na institucionalização das sanções econômicas como uma ferramenta de dissuasão e coerção autônoma no Pacto da Liga das Nações. Apresenta-se como o referencial liberal-idealista moldou esse processo, as expectativas que existiam por trás das sanções econômicas e os casos em que sanções econômicas foram aplicadas. Por fim, o artigo descreve as ideias realistas que influenciaram a criação das Nações Unidas, cuja Carta constitutiva previu as sanções econômicas como um instrumento de segurança coletiva, mas àquele tempo lhes conferia papel menos proeminente que o uso da força.

Palavras-chave: sanções econômicas, segurança coletiva, Conferências de Haia, Liga das Nações, Nações Unidas.

Introduction

In a world where governments and people buy and sell things, and invest and transfer money beyond national borders, it is crucial for states to maintain the international commercial and financial channels open. Closing these channels harms states' economic health. That is why economic sanctions are a painful instrument in the toolbox of international organizations, used to threaten or coerce states to change their course of action.

Since the end of the Cold War, the United Nations has imposed more than twenty mandatory economic sanctions² in name of collective security. This represents a substantial increase comparing to only two mandatory economic sanctions imposed from 1945 to 1989. The content of economic sanctions is also quickly changing. Present day sanctions are becoming increasingly targeted, in contrast to the mostly comprehensive sanctions imposed in the beginning of the

2 Mandatory economic sanctions are the ones imposed by the Security Council and that all states are constrained to obey.





1990s.³ But when, why, and how economic sanctions became an instrument of deterrence and coercion in the toolbox of collective security? To answer these questions this article is divided in three parts.

First, it is shown how the Hague Conferences, in which states began to institutionalize international arbitration as a pacific mean to solve international disputes, created a concern over how to enforce arbitral sentences in an anarchic international system. Economic sanctions were foreseen, at least theoretically, as an effective remedy to pressure recalcitrant states, defeated in international arbitration, to comply with the terms of the sentence.

Second, the article explores the process of inserting economic sanctions in the Covenant of the League of Nations as an autonomous tool of deterrence and coercion to be used against states that have threaten or broken peace. It is shown how the liberal-idealist framework shaped this process, the existing expectative behind it, and the cases in which economic sanctions were applied as well as the outcomes reached.

Finally, the article describes the realist ideas that influenced the creation of the United Nations (UN). In the UN's institutional framework, use of force gained prominence over economic sanctions, which was perceived as a naïve and liberal-inspired tool. Time, however, would prove economic sanctions an increasingly important tool serving collective security.

The Hague Conferences and the question on arbitration decisions' enforcement

The first Hague Conference was proposed by Tsar Nicholas II. In 1898, he invited the major powers to jointly discuss mechanisms of arms control and peaceful means of conflict resolution.

The late XIX century and the beginning of XX century were the apex of the system of complex alliances between European countries. This system has a date and place of birth: the 1815 Congress of Vienna, held after the end of the

³ Comprehensive sanctions have also been called *collective* sanctions and their aim is to “hit the nation as a whole, including individuals and groups that are not particularly responsible [for the situation that triggered the sanction]” (GALTUNG, 1967, p. 381). *Targeted* sanctions, by their turn, are imposed on individuals or non-state entities. The high humanitarian costs of comprehensive economic sanctions imposed on Iraq and Haiti (GARFIELD, 1999) and the rise of international individual accountability made UNSC rely mainly on targeted sanctions since the mid-1990s (GIUMELLI, 2011, p. 11-12).





Napoleonic wars: “at the end of the nineteenth century the traditional system of empires, built on the basis of power relations, mainly military or economic, reached its maturity”⁴ (DI NOLFO, 2002, p. vii). Therefore, it’s not surprising that the Tsar’s invitation to discuss arms control and peaceful settlement of disputes caused astonishment and produced little expectation in most European capitals (EYFFINGER, 1999, p. 16).

Despite incredulity, all major powers attended the conference in 1899⁵. According to Abler, two reasons can explain their attendance: (i) even without believing in the potential of achieving effective results, no one wanted to be responsible for the failure of the conference; and (ii) most importantly, the Tsar’s letter of invitation and the carefully drafted agenda limited some more controversial issues. For example, on the agenda for discussion was a proposal for international arbitration which was less threatening to the invitees than the issue of arms control (ABLER, 2008, p. 15-16).

Between May and July 1899 the twenty-six states represented at the Conference issued six *voeux*, three declarations and three conventions⁶: (i) Convention for the Pacific Settlement of International Disputes, (ii) Convention with respect to the Laws and Customs of War on Land, and (iii) Convention for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention of 22 August 1864. The First Convention is considered the greatest advance on multilateral instruments available to states to deal with peace and security issues made by the two Hague conferences. In fact, the Second Hague Conference, held in 1907, failed to establish a system of compulsory arbitration for the resolution

4 In the original: “alla fine del secolo XIX il sistema degli imperi tradizionali, costruiti sulla base di rapporti di forza prevalentemente militari o economici, raggiunse la sua maturità”.

5 Sovereigns and heads of state represented at the first Hague Conference: “His Majesty the German Emperor, King of Prussia; His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary; His Majesty the King of the Belgians; His Majesty the Emperor of China; His Majesty the King of Denmark; His Majesty the King of Spain, and in his name Her Majesty the Queen-Regent of the Kingdom; the President of the United States of America; the President of the United States of Mexico; the President of the French Republic; Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India; His Majesty the King of the Hellenes; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau; His Highness the Prince of Montenegro; Her Majesty the Queen of the Netherlands; His Imperial Majesty the Shah of Persia; His Majesty the King of Portugal and the Algarves; His Majesty the King of Rumania; His Majesty the Emperor of All the Russias; His Majesty the King of Serbia; His Majesty the King of Siam; His Majesty the King of Sweden and Norway; The Swiss Federal Council; His Majesty the Emperor of the Ottomans; and his Royal Highness the Prince of Bulgaria. (SCOTT, 1920, p. 161)

6 Conventions and Declarations are non-binding to the signatory states. *Voeux* are wishes and, as such, express expectations on how discussions can evolve. They indicate general guidelines for further discussions on issues in which the delegates failed to reach an agreement. *Voeux* are not binding. (BAKER, 2011)





of disputes between states. Thus, despite the limits of the voluntary system of conflict resolution, which was anchored in good offices, mediation, conciliation and international arbitration, it is remarkable that the states also agreed on creating the Permanent Court of Arbitration, the first permanent international institution created to arbitrate international conflicts in a “system of empires” era. The preface of “The Proceedings of the Hague Peace Conferences” stated:

The Peace Conferences held at The Hague were the first truly international assemblies meeting in time of peace for the purpose of preserving peace, not of concluding a war then in progress. They marked an epoch in the history of international relations. They showed on a large scale that international cooperation was possible, and they created institutions—imperfect it may be, as is the work of human hands,— which, when improved in the light of experience, will both by themselves and by the force of their example promote the administration of justice and the betterment of mankind (SCOTT, 1920).

Following the progressive institutionalization of international arbitration, a new question emerged: how to enforce arbitral sentences. The international community had not at that time deliberated on tools to pressure a state that had voluntarily participated in the international arbitration to comply with the sentence. Sanctions were then proposed as tools to pressure recalcitrant states to comply with the terms of the sentence. Jacques Dumas, a French jurist, noted in a seminal 1911 study that the success of the most elaborate instrument to peacefully settle international disputes, created in the Hague Conferences – arbitration – depended on finding a solution to arbitral sentences enforcement:

It has always been urged, both by skeptics and by believers, that the test of the practicability of international arbitration stands on the question of sanctions (DUMAS, 1911, p. 934).

Dumas (1911) categorized sanctions as political, legal, criminal, and economic, according to their “moral” substance. After presenting data and highlighting interconnections on the world economy he sustained that, in such an international context, political economy could provide various instruments for the enforcement of arbitral sentences. He noted that one of the most effective economic tools would be cutting foreign currency transfers that could be used to finance war.

Interestingly, Dumas considered economic sanctions focused on trade dangerous to senders, precisely because of economic interdependence. He underlined that





these sanctions could effectively damage the target state's economy, but would also harm the sender because (i) the sender state would be deprived of imports, what could compromise its economy and (ii) if the sender state wants to sell in international trade, it needs to buy, since imports are paid with exports:

Too many people believe, as soon as political economy is concerned, that no better sanction could be thought of than boycotting the produce, and, as a general rule, all exportations of the unwilling state. Such a sanction may be practicable sometimes when the foreign trade of that state is of such a kind that the other nations can stop commercial intercourse with it without any inconvenience to themselves. But the increasing international character of trade and industry will more and more render boycotting impossible. The placing of an embargo upon the purchase of needed products amounts to two-fold self-punishment, first because we would remain deprived of necessary articles, even perhaps of raw material, without which our own industry could not thrive, and, secondly, because importations are always paid for with exportations and our unwillingness to buy results in an impossibility to sell (DUMAS, 1911, p. 948).

History would prove Dumas's predictions wrong. The imposition of economic sanctions by international community increased. Their intense use by the United Nations Security Council since 1990 seems less conditioned to how interconnected the global economy is and more aligned to the structure of political and economic interests of the most powerful states. These interests are frequently promoted through international institutions and take advantage of their enforcement mechanisms in single states.

However, at these earlier stages, a concern on the sanctions effects on the population was raised. Dumas stated that making individuals pay for a state's transgressions inevitably works against the development of international law and, lastly, against peace. In this rationale lies the key to the evolution of economic sanctions in UNSC from comprehensive sanctions to smart sanctions in the 1990s⁷. Effects on the civilian population became a critical issue for the international community after the severe effects that followed the economic sanctions imposed on Iraq from 1990 to 2003 and on Haiti from 1993 to 1994.

Dumas did not fail to recognize that trade sanctions might be feasible when international trade could be stopped without major inconveniences to the senders.

⁷ "In a time when the progress of international law consists in limiting all conflicts to governmental concerns, and putting the individual out of their sphere, boycotting would be all the more inconsistent with modern doctrine, since it is intended to make the individual pay for the faults of the state" (DUMAS, 1911, p. 949).





So, whether commercial or financial, whether their effects on civilians were acceptable or not, the first steps were already given to the acceptance of economic sanctions as an enforcement mechanism. They would be instruments to remedy the lack of a legitimate international force to enforce arbitral sentences. Economic sanctions could, thus, be a safeguard to peace and international security.

The League of Nations: economic sanctions to promote collective security

In spite of the good intentions and normative progresses of the Hague Conferences, it took a conflict involving the death of more than 4 million Russian, French, British and American people to awaken states to the necessity of building an international political system guided by principles different from those emerging from the balance of power⁸. Woodrow Wilson sponsored a new way of organizing the international system. On 22 January 1917 the President of the United States held before the US Senate the world need for an organized peace:

The terms of the immediate peace agreed upon will determine whether it is a peace for which such a guarantee can be secured. The question upon which the whole future peace and policy of the world depends is this: Is the present war a struggle for a just and secure peace, or only for a new balance of power? If it be only a struggle for a new balance of power, who will guarantee, who can guarantee, the stable equilibrium of the new arrangement? Only a tranquil Europe can be a stable Europe. *There must be, not a balance of power, but a community of power; not organized rivalries, but an organized common peace* (WILSON, 1917). [emphasis added].

Believing in the power of deterrence that a joint international response would have against states that threatened or breached peace, Wilson proposed a totally new conformation to international society: the community of power.

What Wilson meant by ‘community of power’ was an entirely new concept that later became known as ‘collective security’ (KISSINGER, 1994, p. 51).

⁸ Balance of power is a core concept to classical realist and neorealist theories of international relations. “The concept of a balance of power implies an equilibrium of force as between the States or groups of States, within the system in question. Such a balance, it is asserted, works for peace since no State is in a position to seek hegemony. The balance may be conceived of as a status maintained by self-correcting natural forces or as the product of deliberate human intervention” (VAGTS, 2011).





In this new conformation, peace would be considered indivisible. It meant that a state's aggression would be considered a breach of the entire peace system and, when that happened, all non-aggressor states would unite to halt the belligerent.

Wilson's activism and the – mainly economic —power that the United States accumulated at the end of the First World War advocated in favor of the institutionalization of collective security. The new form of international politics would be operationalized by an international organization: the League of Nations – the first universal political international organization. In the League's architecture, for the first time international security became a collective responsibility, based on the acceptance that peace is indivisible and that all states have an interest in curbing aggression wherever and whenever it arises. If this threat of collective reaction failed, it would be necessary to adopt measures in response.

At that time, European countries, especially France, were apprehensive to predict effective mechanisms and measures to prevent violent conflict between nations. The demand was that the coming rules “must provide the sanctions necessary to insure their execution, and so prevent a false security from serving simply to facilitate new aggressions” (BERTRAM, 1932, p. 140).

More than a century after the industrial revolution had consolidated the ideas of classic economic liberalism between Western governments, it was not strange that measures which were intended to weaken the economic sector were perceived as a great tool of deterrence initially, or coercion if necessary. With the progressive interconnection of international trade and the possibility of collective action, they seemed to be potentially effective.

The British General Jan Christiaan Smuts was largely responsible for the central role that economic sanctions assumed in the League of Nations toolbox. He suggested, in a pamphlet of great influence released on the eve of the Paris Conference, the power of economic sanctions —both commercial and financial —and credited it a central role in the effectiveness of a broad League of Nations sanctions' mechanism⁹ (BERTRAM, 1932, 141). The measures that the League of Nations could effectively

9 Anton Bertram describes the context in which General Smuts' pamphlet comes to public attention and the influence it had on President Woodrow Wilson. Considering the terms of the pamphlet Bertram also stretches General's recommendations to the use of economic boycott as a powerful weapon: “I therefore recommend [...] (19) That the Peace Treaty shall provide that if any Member of the League break its covenant under paragraph (18) it shall ipso facto become at war with all the other Members of the League, which shall subject it to complete economic and financial boycott, including the severance of all trade and financial relations, and the prohibition of all intercourse between their subjects and the subjects of the Covenant-breaking State, and the prevention as far as possible of the subjects of the Covenant-breaking State from having any commercial or financial intercourse with the subjects of any other State, whether a Member of the League or not” (BERTRAM, 1932)





take to restore peace when moral persuasion was not enough were finally put forward in article 16 of the Covenant of the League of Nations. Woodrow Wilson drafted this article incorporating economic sanctions as suggested by Smuts:

Article 16. Should any Member of the League resort to war in disregard of its covenants under Articles 12, 13 or 15, 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 the nationals of the covenant-breaking State, and the prevention of all financial, commercial or personal intercourse between the nationals of the covenant-breaking State and the nationals of any other State*, whether a Member of the League or not. (LEAGUE OF NATIONS, 1919) [emphasis added].

Article 16 was considered “League’s heart of collective security system”¹⁰ (BARACUHY, 2005, p. 39). In it, the economic sanctions were legally codified and elevated to an autonomous deterrence and coercion mechanism, outside the war efforts, admitted to ensure collective security. To put it another way, economic sanctions were seen as a mechanism to prevent the use of force. This emerged from the recognition that the pressure that economic sanctions could exert conferred on them an irresistible power of persuasion:

A nation that is boycotted is a nation that is in sight of surrender. Apply this economic, peaceful, silent, 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 brings a pressure upon the nation which, in my judgment, no modern nation could resist (PADOVER *apud* HUFBAUER et al. 2007, p. 1).

It is the most complete boycott ever conceived in a public document, and I want to say with confident prediction that there will be no more fighting after that. There is not a nation that can stand that for six months (Bertram 1932, 144).

The rationality of states as well as some idealism, especially Woodrow Wilson’s, who believed it was possible to transcend power politics and the endemic character of war¹¹, strongly echoed in the rules of collective security that were put in place. The logic inherent in the economic sanctions’ mechanism assumed the growing economic interdependence in international society and the rationality of states:

10 In the original: “coração do sistema de segurança coletiva da Liga”.

11 The basic idea behind the liberal tradition is the assumption of rationality as a basic characteristic of humanity. It is the rationality that enables the transformation of social relations and leads to overcome the power politics and the endemic character of the war. (HERZ, HOFFMANN, 2004, p. 51).





The theory was that the complexities of modern commerce had rendered no nation self-supporting and therefore capable of resisting a general economic boycott. A nation threatened with such a siege would not think it worthwhile to persist in a course of action liable to lead to that result. The League was thus based on optimistic assumption about the rationality of states and the effectiveness of economic pressures on them (RENEWICK *apud* ABLER, 2008, p. 23).

When the League of Nations started working, questions soon emerged about the content and procedural rules that should be applied to economic sanctions. Article 16 listed measures that should be taken independently by individual states on the involvement of the League's Council. In 1921 "the Assembly of the League adopted guidelines stipulating that the Council could recommend to the member states an appropriate plan of action and secure the assistance of a technical commission" (KRISCH, 2012). In 1929, the International Blockade Committee was created. Its conclusions and recommendations, formally accepted by the General Assembly in the first report submitted, served to guide discussions about the implementation of economic sanctions by the League of Nations. In the "operation's scheme" to put in place economic sanctions, the Committee's first item was dedicated to clarify that economic sanctions should not be used as an act of war, but as a form of peaceful pressure. In addition, the Committee stressed that there should be a simultaneous and complete coordination mechanism; that economic disruptions should be gradually strengthened, preserving humanitarian relations; that the ban on food should be adopted only as an extreme measure; and finally, if – and only if – necessary in a situation unsolved by sanctions enforcement, the reactions of the League should develop into a state of war.

Since then, the League of Nations' economic sanctions were treated as a form of peaceful pressure to use against a state which decided on war or aggression in breaching Articles 12 to 15 of the League's Covenant¹². The Liberal-idealist framework, considering the growing interdependence of states and believing in the rationality of relations between them, could not consider economic sanctions as anything other than an "irresistible pressure to which no nation could resist".

12 Articles 12 to 15 echoed the adoption, at League Covenant, of conciliation and arbitration procedures designed in the Hague Conferences. Moreover, art. 14 provided for the creation, as proposed by the Council, of a Permanent Court of International Justice [PCIJ]. The PCIJ worked from 1922 to 1940 and during this period dealt with 29 contentious cases and emitted 27 advisory opinions. (BIBLIOTECA VIRTUAL DE DIREITOS HUMANOS, 2013).





As mentioned before, although peace was conceived as indivisible – a responsibility all and every state – states were responsible to assert, individually, if the obligation to enforce sanctions had effectively arisen. It was believed states would behave in good faith so there was not only an individual obligation to verify the need for sanctions but also a moral (not lawful) obligation to punish the emerging aggressor:

Wilson's view prevailed as the Covenant ultimately provided for a voluntary approach for member states to decide, based on a unanimous recommendation of the League Council, whether they want to take military or economic measures against a member that had committed aggression (ALEXANDER, 2009, p. 21).

Hans Kelsen pointed out a structural deficiency in the “League's heart of collective security system”. He said there was a failure in Article 16 because despite prescribing immediate application of sanctions for those who violated Articles 12 to 15 (regarding disrespect of the obligation to submit the dispute to international jurisdiction), it was not clear who would declare that a state had violated the rules and would be therefore subject to sanctions¹³. All things considered, it would behoove each state to say whether or not the violation existed and, consequently, only in this case would emerge the obligation to apply sanctions (KELSEN, 1951).

Finally, the decision-making system of the League's organs, based on unanimity, topped the list of normative difficulties at the institutional level for the application of sanctions. If considered the decision would be taken collectively, with the organization bodies in their entire composition, a member state should literally vote against itself in order to enforce the League's mechanism of sanctions.

The following table shows cases in which the system of economic sanctions under the League of Nations has been invoked. It is possible to notice initial successes, in the 1920s, when the Council's threats to use economic sanctions had some effect. In the 1930s, with the war winds approaching, the legal limits to adopt a sanction recommendation and the rising Germans threats buried the liberal expectations that with sanctions in place there would be no more military aggressions. Article 16 was effectively applied only in the conflict between Italy and Ethiopia.

¹³ The Assembly of the League “adopted a number of amendments to the Covenant, which, for example, granted the Council the authority ‘to give an opinion whether or not a breach of the Covenant has taken place’. The Council was also to recommend to the member States the appropriate moment for the application of economic enforcement measures. However, these amendments were never ratified and retained the character of non-binding guidelines” (KRISCH, 2012).





Box 1 – Economic sanctions applied or threatened by the League of Nations

Year and description	Targeted State	Cause	Outcome
1920 Threat	Poland	Polish general seized Vilnius, Lithuania's capital	Poland abandoned Vilnius before Council's decision on the Lithuanian request for imposition of sanctions
1921 Threat	Yugoslavia	Invasion of Albania	League threatened Yugoslavia with sanctions and the troops were withdrawn before the sanctions were applied.
1925 Threat	Greece	Conflict between Greece and Bulgaria with friction in the border area and Greek occupation of territory	Greece agreed to a cessation of hostilities and avoided sanctions.
1931 League powerlessness to impose economic sanctions	Japan	Japan invaded China (Manchuria). Both states were League's members.	As Japan was member of the League, it held veto power over the issue. This situation led to the absurd – but legitimate – conclusion that League of Nations (LoN) could only act with the accordance of the aggressor state.
1931 Sanctions recommended	Bolivia and Paraguay	Chaco War between Bolivia and Paraguay. Both states were League's members.	Sanctions recommended in the form of arms embargo, but neighbor states refused to stop sending weapons. In 1934, the LoN suggested to lift the embargo imposed on Bolivia but to maintain it on Paraguay. Paraguay then withdrew from the organization.
1935 Sanctions imposed	Italy	Italian invasion of Ethiopia.	Sanctions imposed in 1935 (except on oil, coal and steel) and lifted in 1936, when Italy consolidated its position in Ethiopia. It was considered a big failure of LoN economic sanctions mechanism. Nevertheless, League's response to Italian aggression must be understood within the political context of a rising aggressive Japan and a resurgent Germany ¹⁴ . It is considered the only economic sanction effectively applied.

Source: Author's own elaboration based on Abler, 2008, p. 29-30; Hufbauer et al., 2007; Alexander, 2009, p. 23).¹⁴

¹⁴ Facing the growing impotence of the League of Nations and in a context where collective security was more a wish than a reality, Britain and France preferred to hardly damage Italy in order to make it not tend to a coalition with Germany – which recovered its power under the leadership of Hitler – if the war broke out. The Council of the League recommendation – which avoided the Italian veto by a procedural maneuver to convoke a special conference to define what sanctions would be applied against Italy – was to impose on Italy an embargo on the supply of weapons and military goods, a prohibition from financial dealings with Italy, cessation of imports of Italian commodities and the refusal to sell certain products. These sanctions were considered elastic and not universal because they did not include oil, coal and steel trade restrictions. The other measures taken, such as denying passage through the Suez Canal, allowed war materials to continue to be shipped from Italy to Eritrea. Even without impacting too severely on political leaders and the Italian population, the sanctions and the cost of the war caused the Lira to be devalued by 25% in November 1935. The country was forced to sell almost 100 million dollars in gold and both imports and exports fell. British and French concerns about Ethiopia, which were not great, ceased when Hitler denounced the treaties of Locarno and sent German troops to the militarized region of Rhenania. Feeling a threat of a German aggression materializing, to push Italy into the arms of a coalition with Germany was an undesirable risk and made the Ethiopian case a concern of lower case in Europe. (NYE, 2009, p. 116-117; HUFBAUER et al, 2007, p. 102).





Thus, despite the success of economic sanctions' threats on smaller states during the 1920s, in the following years they succumbed to the most urgent and existential needs of the central states. Facing concrete acts of aggression since 1939, states' immediate survival could not wait the time that the economic sanction needed in order to act effectively, nor could states rely on the support to be given by a collective security system unrepresentative of international society, on which neither the United States nor the Soviet Union were willing to contribute to the enforcement of measures adopted. Economic sanctions shown to be not a real option in the states' toolbox for ensuring and articulating the collective security required in order to prevent war. Instead, states would be impelled to appeal directly to weapons.

The United Nations: economic sanctions initially distrusted – but still there

In the same year that the Second World War broke out, Edward Hallett Carr published “Twenty years of crisis: 1919-1939”. His scathing criticism of idealistic postulates intended to remind the world of the prominence of power in world politics. Carr's goal was

not merely to remind his readers about the importance of power in world politics, but, rather, to show that the crisis of which he wrote in 1939 was in large part the result of what he viewed as a serious mismatch between the depth of the world's disorders and the liberal solutions many thought might solve these after World War I (*apud Cox, 2010, p. 1*).

The liberal idea of equality, for instance, and its reception at the League of Nations through the formal recognition of a legal equality, which is reflected in an equality of power between states in the decision making instances, demonstrated an inadequacy for the dynamics of power at the time. The most powerful states would not join such an international organization scheme, unless the institution recently created reflected the distribution of power in the international system. Accepting this perspective, “the League of Nations could only be effective to the extent that it was an instrument of national policy of its most powerful members” (CARR, 2001, p.182).





If, on the one hand, the construction of an equal system, even formally, between the states to ensure world peace was discredited, on the other, the concern with collective security was more alive than ever. Unsurprisingly, already in 1941 the Atlantic Charter, signed between the leader of the British government, Winston Churchill, and the US President, Franklin Roosevelt, enunciated the need to create an extensive and permanent general security system. In 1943, in Quebec, the two leaders agreed that the initiative to create an international organization for peace and security maintenance belonged to the states who led the fight against the Axis – the Big Four (US, Soviet Union, Britain and China).

The pillars of the new political international organization were designed at the Dumbarton Oaks meetings, in 1944. The terms accorded were also discussed at Yalta and at the San Francisco Conferences, where the UN Charter was finally adopted. The pillars discussed at Dumbarton Oaks were kept virtually unchanged: (i) the Security Council would have the primary responsibility and authority to maintain peace and security by non-military and military means; (ii) member states agree to adhere to the mandate of the Council and (iii) France and the four major leaders which resisted the Axis would be permanent members of the Security Council, each one holding veto power (ABLER, 2008, p. 32-37).

Box 2 – Main institutional differences between the League of Nations and the United Nations

	League of Nations	United Nations
Voting on non-procedural matters	Unanimity criteria both in the Council and in the Assembly.	General Assembly: required affirmative vote of 2/3 of those present and voting; Security Council: required affirmative vote of 9 of the 15 members and the absence of the use of veto power by any of the five permanent members.
Nature of decisions	All resolutions, from the Council or the Assembly, had no mandatory character.	General Assembly resolutions: recommendations nature only, with no binding character; Security Council resolutions: with non-binding or binding nature, depending on the will of the Council.
Military coercion	Not previewed.	Previewed (Chapter VII).

Source: Author’s own elaboration.

As the composition of the different bodies and the voting powers of states echoed in the new institutional structure (Table 2), there was a real incentive to the major powers to engage in the nascent organization. The solution equated a





series of disjunctions which existed among the discredited idealists' claims and the actual distribution of power between the states, resulting in a possible model of international collective security.

The new institutional framework pulled away doubts on critical points that emerged from the use of economic sanctions in the League of Nations. This was made possible by four changes. First, by changing the unanimity rule in the voting processes, which ended up giving too much power to small states or leading to the unusual situation of a member having to agree with its own punishment in the League of Nations. Second, by overcoming the voluntarism in deciding whether there had been a threat or a breach of the peace, and also which penalties states should apply and how. Decisions would ultimately be under the UNSC's control, which would have the power to issue binding decisions for all members. Third, by predicting the use of military force to enforce collective security if necessary. Finally, by granting veto to great powers, which could paralyze the organization if faced with the possibility of seeing it turning against them.

The gap which existed in the League of Nations regarding, on the one hand, the concern for collective security, and on the other, the distance between formal equality and the real power among the states, was repaired. The key was the structure, rules, and working mechanisms of the Security Council: “[t]he Security Council can be seen as a nineteenth century concept of balance of power integrated in the UN collective security framework” (NYE, 2009, p. 213). In these terms, it was in the interests of the most powerful nations to be part of an international organization that sought to ensure collective security.

Within this framework it was natural that the UN sanction's mechanisms were impregnated with realism. Inside the toolbox to enable collective security, economic sanctions were listed but less prominently than the use of force.

The acceptance of military mobilization provided specifically to an organization which would not be inert because of the unwillingness of less expressive countries could be explained by the general feeling that the League of Nations lacked materials and effective means of coercion. Within the realistic orientation that prevailed in the academy and among statesmen, this was necessary to avoid both the tragedy of a new world war and the ineffectiveness of the United Nations against conflicts of significant proportions:

The planners of the United Nations were at odds on many questions, but they were in agreement from the outset that the new organization must have the power to maintain the future peace of the world through the use of international





force. (...) These views reflected a preoccupation with force which was inevitable in the midst of war and, also, a general feeling that the League of Nations had failed in its task of keeping the world's peace because it had been insufficiently endowed with physical means of coercion (KIRK, 1946, p. 1081).

This concern, moreover, was not new in the political arena. Carr, criticizing the "League of Nations' affairs" stated that "the elimination of assumption of force in politics could only be the result of a completely uncritical attitude to political problems" (CARR, 2001, p. 137).

Everything was prepared to the acceptance of the vetoing right of the five permanent members of the Security Council¹⁵, the prominence of this organ in matters related to peace and security¹⁶, the mandatory character conferred on its decisions¹⁷, and the concrete provision of the use of force as a collective security mechanism¹⁸.

After World War II, the structures and dynamics of the new organization should meet the general expectation of speed and efficiency:

Sweeping statements were made concerning the coercive powers which any new organization must have, and the public was led to believe that this time there was to be created an agency which would be able to deal with international breaches of the peace almost as swiftly and effectively as law enforcement officers deal with an individual criminal within the state (KIRK, 1946, p. 1081).

15 Article 27 of the Charter provides voting rules and the privilege of veto granted to the five permanent members in the Security Council: "Article 27 - 1. Each member of the Security Council shall have one vote; 2. Decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members; 3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting" (UNITED NATIONS, 1945)

16 The prominence of the Security Council was agreed by the Article 12 of the Charter: "Article 12 - 1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests; 2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and similarly notify the General Assembly, or the Members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters" (UNITED NATIONS, 1945)

17 Binding nature of Security Council decisions: "Article 25. The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter" (UNITED NATIONS, 1945)

18 Real possibility for the use of force: "Article 42. Should 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" (UNITED NATIONS, 1945) The operationalization of the use of force was regulated under Articles 43 to 47 of UN's Charter.





In the context of agility and efficiency aimed for the new organization, any idealistic aspiration should be contextualized within the power of the states. Economic sanctions – once the most celebrated of the League of Nations’ tools – although referred to in the UN Charter, were re-signified in terms of importance. They survived as an instrument less important than the use of force; one that could not claim anymore the former importance received in the League of Nations Covenant.

The “realist” school of international relations emerged after World War II largely as a reaction to the overly optimistic expectations associated with the League of Nations. It was the “utopian” ideas associated with the League that provided grist for the “realists” mill; therefore, it was only natural that economic sanctions, as the policy instrument most closely identified with the League in the public mind, should also be denounced. Whereas military force symbolized hard-headed “realism,” economic sanctions symbolized fuzzy minded “idealism” and unwillingness to face up to the hard facts of international life (BALDWIN, 1985, p. 155).

Despite being linked to idealism, the damaging power of economic sanctions was soon recognized. Differing interests between the US and the UK on the one hand, and the USSR on the other, made the situation involving the fascist regime of General Francisco Franco in Spain impossible to be resolved at the Security Council¹⁹. On December 12, 1946, under the live fascist ghost already hovering over Spain, and in the context of the Cold War, the General Assembly recommended the severance of diplomatic relations with Spain. The Western bloc considered it risky to act more emphatically – and this included mandatory economic sanctions measures against Franco:

[...] in 1946 neither the British nor the Americans could afford the political instability and even the danger of renewed civil war which might result from any attempt to oust Franco. Consequently they were not prepared to intervene with force or support economic sanctions against him (JOHNSON, 2006, p.50).

As regards the possible impact of economic sanctions, Western countries pondered that disruption of trade ties would compromise the general economic recovery of the targeted country, eventually contributing to a Spanish inclination

¹⁹ US and UK did not want an intervention, but were in the awkward position of supporting Francisco Franco to avoid the natural path to the revolution, as expected by the USSR with the deteriorating situation in Spain. (JOHNSON, 2006)





toward Soviet influence. Thus, the US held the sale of oil to Spain while the British considered the importance of this trade for supplies of food, raw materials, and industrial products.

A British cabinet note, from 6 January 1947, recognized that:

The British were reliant on Spanish fruit and vegetables and Spanish potash for fertilizer to improve post-war food production. British industry also needed Spanish raw materials and Spain used its currency earnings to purchase manufactured goods from Britain and other European states so adding to general postwar economic recovery (JOHNSON, 2006, p. 59).

The discussions on the adoption of economic sanctions at the United Nations were starting. However, the dynamics of the Cold War balance of power and the voting rules of Security Council froze the organization for forty-five years. The same happened with the imposition of economic sanctions. During the Cold War, mandatory economic sanctions were adopted only twice: against Southern Rhodesia and against South Africa, because of the abuse of power by white minorities in these countries (CORTRIGHT, LOPEZ, 2000). However, the ending of the Cold War changed the scenario.

During the 1990s, five times as many economic sanctions were imposed compared to the previous four decades. Rebirthed, economic sanctions entered the UN policy agenda and, up to these days, are one of the most important instruments in the international community's toolbox of measures to enforce international peace and security.

Conclusions

This article described the path to economic sanctions' institutionalization as an instrument to ensure international peace and security.

It started by showing that the Hague Conferences, which progressively institutionalized international arbitration as a pacific mean to solve international disputes, lead to the concern on how to enforce the arbitral sentences. Jurist Jacques Dumas article can be considered the first one to present systematic reflections on this topic and presented some concerns – as the danger to economic sanctions senders – still shape the states concerns when deciding to adopt this measure.

The end of the First World War lead to the creation of the League of Nations.





In its Covenant, the economic sanctions were formally conceived as an important tool to achieve world peace and security in the international community toolbox. For the first time they had been codified internationally as an autonomous coercive measure to promote collective security, not linked to an arbitral sentence. Convinced on the economic sanctions' power to dissuade eventual aggressors, Woodrow Wilson advocated emphatically in their favor and they were previewed in article 16 of the Covenant of the League of Nations. From 1920 to 1935, economic sanctions were adopted and distrusted after the League of Nations failure to avoid the Second World War (WWII). At the dawn of WWII aggressions, the emerging realist school of international relations denounced the too 'idealistic' ideas enclosed in this organization. Excessive confidence on the power of economic sanctions were also criticized.

At the close of WWII the planners of the United Nations (UN) had a shared comprehension that the use of international force must be an important tool of the new organization. Without the emphasis that could be observed in the League of Nations Covenant, economic sanctions were then listed in article 41 of the UN Charter as one of many coercive measures to maintain peace and security. During the Cold War, the Security Council approved mandatory economic sanctions against Southern Rhodesia and against South Africa. In both cases, the reason for imposing sanctions was the condemnation of racial segregation imposed by white minorities. At those times, the condemnation of racial discrimination was one of the few subjects that received the support – or at least the absence of formalized objection – from international actors with veto power within the Security Council. In the 1990s, economic sanctions were used intensively and this measure of coercion remains until now one of the most important instruments in the Security Council's toolbox to enforce international peace and security.

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