

The Outlook for U.S. Sanctions Policy in 2001

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Champions of U.S. sanctions reform made significant progress last year. However, their achievements produced only modest results in opening up new business opportunities for American companies, primarily in the agricultural and medical products sectors. Still, the groundwork has been laid for more substantial gains. There is now stronger support in Congress for a shift away from sanctions and toward greater engagement with U.S. "states of concern" in pursuit of U.S. foreign policy goals. Moreover, key officials in the Bush administration appear to understand the pitfalls of sanctions as an instrument of foreign policy, including the way in which sanctions undermine U.S. economic interests. But significant political obstacles remain in the way of proposals for more substantial relaxation of country-specific sanctions programs, including the U.S. sanctions against Cuba, Iran, Iraq and Libya. Pending expiration of the Iran-Libya Sanctions Act (ILSA) in August, with its extraterritorial measures, will be a focus of the sanctions debate this year. A substantial investment of effort and political capital will be needed to achieve more meaningful reforms in 2001.

Prospects for Country-Specific Sanctions Programs in 2001

Cuba

Debate in Congress on sanctions against Cuba will remain divisive and politically charged. Last year, Congress approved legislation to ease restrictions on the sale of agricultural and medical products to Cuba. However, the measure included compromise provisions that undermined its practical value, including a prohibition on U.S. financing for sales to Cuba of agricultural products. The coalition of agricultural, humanitarian and business groups that supported this legislation, with possible support from the U.S. financial services sector, may press this year for elimination of these problematic provisions.

Sensitivities in Florida associated with the 2000 presidential election will affect the political dynamics of the debate. Because the Cuban-American community is such a powerful constituency, and both major U.S. parties clearly view Florida as a pivotal state in their long-term strategies, it could prove difficult to advance any sanctions reform for Cuba. Thus, debate on sanctions against Cuba may be the most controversial and difficult area of U.S. sanctions policy in the 107th Congress.

Iran

Further easing of U.S. sanctions against Iran may largely depend on whether, and if so when, Iranian officials provide signals to Washington demonstrating a greater interest in reconciliation.

The outcome of the pending Iranian elections, scheduled for early June, could have a substantial impact on U.S. policy towards Iran. The election will be viewed in Washington as an

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important indicator of the struggle between moderates and conservatives. U.S. officials hope that a victory by President Mohammad Khatami over more conservative loyalists of the Iranian clerics will strengthen the Iran's moderate reform movement. That result could facilitate a more open dialogue with Iran. Secretary of State Colin Powell has already indicated that the Bush administration might seek to explore opportunities for a greater opening of commercial relations with Iran. A negative Iranian reaction to the crisis in the Middle East peace process, or actions to develop or transfer weapons of mass destruction, would undermine prospects for such progress.

Iraq

During the presidential campaign, candidate Bush criticized the Clinton administration's Iraq policy, stating that he would support a more hard-line approach. Since then, Secretary of State Colin Powell has stated that sanctions against Iraq should be tightened. The Bush administration has also announced limited financial backing for the Iraqi opposition. However, mounting international opposition to the U.N. sanctions will make it difficult, if not impossible, to enlist support from other countries for this position. Russia, France, China and most Arab nations are pressing for a lifting of the U.N. embargo. Nonetheless, the Bush administration will try to maintain core U.N. sanctions. The administration can be expected to maintain tough unilateral sanctions regardless of what happens at the United Nations.

Libya

Last year, there were signals that the Clinton administration was considering an easing of sanctions against Libya. This included the possible termination of the long-standing U.S. ban on travel to Libya by U.S. citizens. Conclusion of the Lockerbie proceedings removes a significant obstacle to change in U.S. policy. But the Bush administration has stated that Libya must accept responsibility for the Pan Am 103 bombing and pay compensation for the victims before it will support a permanent lifting of the U.N. sanctions or easing of U.S. unilateral sanctions. Libya's negative reaction to the verdicts does not help to ease U.S. concerns. However, there are some grounds for hope. Libya has distanced itself from terrorist groups in recent years, and it is clear that U.S. officials are watching this trend.

ILSA

ILSA is entangled in broader debate on U.S. sanctions toward Iran and Libya. The same communities of interest that promote a tough approach to both countries were the chief supporters of this 1996 law, and there is a good chance that they will champion efforts to extend the law. Consequently, debate over renewal of the law, which expires in August, can be expected to unfold as a broader debate on U.S. policy toward the two countries.

With Republicans controlling both the House and Senate by slim margins, the Bush administration will have an opportunity to influence congressional consideration of any proposal for renewal of the legislation. Ultimately, the president will have the authority to veto any such legislation. However, the priority the administration gives to ILSA will depend on its importance relative to other domestic and international issues.

The Bush administration could view this as an opportunity for limited easing of U.S. sanctions against Iran and Libya. But the administration will have to consult closely with the

congressional leadership and other leading members of Congress on these issues before adopting a visible position. Given the divided nature of Congress and the range of priorities the administration wishes to advance, executive branch officials will be guided in part by their interest in promoting bipartisan cooperation. These factors will determine to what extent the administration participates in the debate.

Significance of the ILSA Debate

Many in the U.S. business community apparently believe that a congressional decision to not renew ILSA will pave the way for an easing of U.S. unilateral sanctions against Libya and possibly Iran. The business community may argue that a decision by Congress to allow ILSA to expire would amount to tacit approval to move in that direction. Expiration of ILSA could also make it politically difficult for the Bush administration not to take some action to level the playing field with foreign companies.

At the diplomatic level, ILSA has been a major point of conflict between the United States and other countries. In 1996 the European Union initiated a World Trade Organization case against the United States to contest the law's extraterritorial reach. Thus, although ILSA sanctions have never been imposed against foreign companies, the law has been a source of friction in relations between the United States and key allies. U.S. allies are expected to urge the new administration to ensure that this law is not renewed in any form.

Diplomatic considerations are unlikely to sway members of Congress, many of whom will be reluctant to allow ILSA to expire without a serious debate. The American Israel Public Affairs Committee and other interested groups, including relatives of the Pan Am 103 victims, advocate a tough approach to both Iran and Libya. Both groups will be important players in the debate. Supporters of both groups in Congress will try to ensure that their preferences are understood and given effect. If their efforts produce an initiative to extend ILSA in some form, a heated debate on U.S. sanctions toward these countries is likely to ensue.

Conclusions

Many key officials, including the president, already question the effectiveness of unilateral sanctions as an instrument of foreign policy. But it is still unclear how much priority the administration will give to sanctions issues. As a practical matter, President Bush and his advisers must decide to what extent they can expend the time, energy and political capital required to push forward sanctions reform. Moreover, the administration will be compelled to make difficult political calculations in considering whether it is possible to seize opportunities generated in Congress or by events occurring outside the United States to change U.S. sanctions programs. How the administration handles the ILSA issue will be an important indicator of its approach to future sanctions issues.

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