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# Arms Interdiction and the U.S. Navy: Prospects in Central America

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M. Elizabeth Guran

On 17 September 1984, Walter Mondale stated in a Washington campaign speech that if Nicaragua rejected a "good-faith compromise" and continued to export revolution into Central America, as President, he would respond with a "quarantine." During a *New York Times* interview following the speech, Mr. Mondale did not specify what "quarantine" actually meant, beyond "interdiction" by Central American forces assisted by U.S. intelligence information.<sup>1</sup>

Talk again about a U.S. quarantine of Nicaragua emerged early in November 1984 in response to rumors that MiG-21 or 23 advanced fighter aircraft were headed towards Nicaragua in a Soviet freighter. The quarantine was among other responses, ranging from intense diplomatic pressure to an airstrike, which national security officials said would be available to the United States if the MiGs were delivered.<sup>2</sup>

More recently, a Washington paper reported that a naval "blockade" by U.S. warships was being given renewed consideration by the Reagan Administration. The article stated that although contingency plans for a full or partial naval blockade of Nicaragua's Atlantic and Pacific ports had been "kicking around for more than a year," the current consideration was an outgrowth of Reagan Administration released information regarding increased arms shipments bound for the Sandinista army.<sup>3</sup> No mention was made of what purpose the blockade would serve, only that it "would tie up U.S. warships of both Atlantic and Pacific fleets," create a "near-war" situation, and might result in a confrontation between U.S. warships and Soviet freighters.

A common thread runs through these examples. Each lacks a thorough understanding of the terms "blockade" and "quarantine," that is, their origins and current use, operational requirements, and legal ramifications. Each example also fails to specify clearly the objectives upon which a quarantine or blockade would be built. What is to be interdicted? MiGs?

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Tanks? Guns? What about the transfer of arms over land and air routes? Henry Kissinger, in a recently published interview on the subject of U.S. policy in Central America, stated that, "First, what is it we actually want to achieve? . . . We have to make sure that we know what our objective is and that we then select the means that are appropriate to that objective."<sup>4</sup> Inadequate understanding of the terminology in question combined with unclear objectives suggest that a naval quarantine or blockade may not be the most appropriate operation to meet the identified problem.

What do "blockade" and "quarantine" mean? How and why did the latter concept come into being? What are the operational and legal consequences inherent in a number of recent arms interdiction operations? What lessons learned would apply to an arms interdiction operation in Central America?

### "Blockade" and "Quarantine" Defined

The direction of modern international law after World Wars I and II has profoundly affected the law of war at sea and plays a critical role in our's understanding of the concepts of "blockade" and "quarantine" today.

Beginning with the Covenant of the League of Nations after World War I, progressing through the Pact of Paris in 1928, and culminating in the Charter of the United Nations signed in 1945, the international community has moved toward officially outlawing war as an acceptable and "legal" means of solving international differences.<sup>5</sup>

Two paragraphs from the U.N. Charter account for this fundamental shift in international relations. First, Article 2(4) outlaws the use of force, "and does so in plain, absolute, and peremptory terms."<sup>6</sup> Standing alone, no justification would exist within the framework of U.N. membership for resort to force. However, this paragraph exists in relation to Article 51 which reserves the inherent right of individual or collective self-defense in the event of an attack.<sup>7</sup> In a strict sense, a violent act is illegal except when taken in self-defense. And according to the U.N. Charter, the Security Council is the body for whom the use of force is reserved in settling disputes.

Traditionally, blockade became the right of a belligerent in a state of war. It precludes all shipping to or from the targeted countries, without discrimination among ships. It entails the capture and disposition of vessels and cargo as a prize.<sup>8</sup>

Modern international law, however, seeks no longer to regulate war but to *prevent* its occurrence. One naval officer experienced in international affairs believes it "ludicrous" to contemplate the possibility of any meaningful observance of the "legal" code of blockade in the current or probable future state of political reality.<sup>9</sup> This officer believes that the United Nations effectively ended the issue of neutral rights at sea during war by outlawing war and by the implied denial of the neutrality status in the face of armed

conflict by any U.N. member.<sup>10</sup> Others believe that although prohibiting the use of force “inconsistent with the purposes of the United Nations” has deprived belligerents of the rights which they previously possessed against neutrals, to say that neutrals have no rights “would be to leave them the unprotected victims of violence and would be retrogressive and hardly consonant with the aspirations of contemporary international law.”<sup>11</sup>

State practice indicates that grounds do exist for claiming legality of a blockade not declared as an act of war under the sanction of belligerent rights. “The status of belligerence exists under law simply as a means of describing the condition of states not at peace.”<sup>12</sup> Since international law develops by the practice of some states and the reaction of others, it would seem, therefore, that the law of blockade may be regarded as binding only insofar as its tenets reflect the reality of the social order which it is intended to serve.

A third status, beyond peace yet short of war, seems to be developing in modern international law. Even as early as 1907, the English jurist John Westlake considered the existence of such a condition, by the fact that “acts of force are not war unless either a government does them with the *intent* of war or the government against which they are done elects to treat them as war.”<sup>13</sup> This state of “intermediacy” describes a situation in which parties to a dispute are unable to resolve the conflict within purely peaceful means but are unwilling to extend the tension to a complete war status.

The United States conducted the Cuban quarantine of 1962 in the context of this state of intermediacy. The term “quarantine” is a new concept in international law originating with the Cuban Missile Crisis of 1962. President Kennedy used the term to connote something less than the offensive action traditionally associated with “blockade.” It is commonly regarded as involving more limited measures of interdiction and as directed only against offending ships or aircraft of one state moving certain offensive weapons and associated materiel into the territory of another state.<sup>14</sup> The quarantine concept is based upon preexisting legal principles such as the right of national and collective self-defense. A blockade, traditionally referred to as an act of war carried out by a belligerent, precludes all shipping to or from the targeted country, without discrimination among vessels.<sup>15</sup>

Given that war is no longer a recognized political option, is it possible to distinguish between a blockade and quarantine? Not really. We are actually talking about creatures of the same family, or, according to one international lawyer, “distinctions without a difference.” Both concepts

- involve interference with freedom of navigation/overflight in the high seas;
- involve use of “visit and search” as a means of determining whether contraband cargo is being carried;
- must be employed with sufficient forces so as to be effective; and

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- must be preceded with adequate notice of the time, date, coordinates, and period of grace to protect innocent shipping.

In the minds of many lawyers, however, the term “blockade” connotes a much more serious act of force than does “quarantine” since a blockade traditionally has been attached to offensive measures commonly associated with war. In practice, therefore, one cannot ignore this association since it is steeped in emotional reaction difficult to break.

In determining whether to utilize threats or force traditionally associated with blockade, or to employ the more limited measures associated with quarantine, a nation must ensure that its choice is in keeping with the principles of necessity and proportionality.<sup>16</sup> With this in mind, the name attached to a certain act of coercion or force becomes less significant.

### The Cuban Quarantine of 1962

The first example of a naval quarantine occurred in 1962 with U.S. efforts to interdict Soviet shipments of offensive weapons and associated materiel to Cuba. The Cuban Missile Crisis was the basis for the creation of what many international lawyers consider a “new legal rule,” providing an additional and unique option within the continuum of “force in peace.”<sup>17</sup> This precedent allows for an option of restrained coercion. It avoids the extremes inherent in the traditional concept of blockade—that is, the geographic exclusion of all shipping—but allows access to procedures otherwise unavailable under the limited concept of “pacific blockade.”\* The Cuban crisis provides a number of legal as well as operational lessons which merit review, particularly in light of the recent revival of the quarantine concept.

President Kennedy announced to the American people on 22 October 1962, that “unmistakable evidence” revealed a series of offensive missile sites being established on the island of Cuba. The purpose of the bases, according to Kennedy, “. . . can be none other than to provide a nuclear strike capability against the Western Hemisphere.”<sup>18</sup>

The fact that these were nuclear missile sites introduced a unique significance to the conflict, as the President himself noted: “We no longer live in a world where only the actual firing of weapons represents a sufficient challenge to a nation’s security to constitute maximum peril. Nuclear weapons are so destructive and ballistic missiles are so swift that any substantially increased possibility of their use or any sudden change in their

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\*According to Julius Stone in *Legal Controls of International Conflict* (Rinehart 1954), p. 292, a pacific blockade consists of “. . . blocking access to or exit from particular ports or a particular portion of the coast of the offending State in order to exercise pressure on that State.” The term “pacific” is to convey that the blockade is instituted in time of peace. A pacific blockade differs from a traditional blockade or quarantine in that first, no status of belligerency exists between the blockading state and the offending state, as would be the case in a blockade. Furthermore, the legal position of third-party states always remained a matter of controversy, in both practice and doctrine.

deployment may well be regarded as a definite threat to the peace.”<sup>19</sup> Soviet installation of a major offensive missile threat presented an effort so significantly destructive of the *status quo* that U.S. action of some sort was inevitable.

U.S. intelligence noted significant Soviet presence on Cuba during the summer of 1962—Soviet technicians and military equipment including MiG-21 fighter aircraft, surface-to-air missiles, and patrol boats with missiles—yet, this did not justify use of military force against Cuba, according to Kennedy. As far as was known, the Soviet arms in Cuba were for “defensive” purposes.<sup>20</sup>

Kennedy selected the limited coercive force of a naval quarantine, combined with less coercive acts, as his initial military response to the Soviet nuclear missile threat. “All ships of any kind bound for Cuba from whatever nation or port will, if found to contain cargoes of offensive weapons, be turned back.”<sup>21</sup> Further action would be justified, according to Kennedy, should the military preparations continue: “I have directed the Armed Forces to prepare for any eventualities; and I trust that, in the interest of both the Cuban people and the Soviet technicians at the sites, the hazards to all concerned of continuing this threat will be recognized.”<sup>22</sup> It is interesting to note that although crisis advisers had been talking of a blockade, President Kennedy himself came up with the term “quarantine,” following a State Department legal adviser’s suggestion, as connoting something less than the offensive action traditionally associated with blockade.<sup>23</sup>

President Kennedy directed his 22 October announcement at the Soviet Union. The conflict in his mind was an East-West affair, not a Caribbean one. Yet nothing in the address can be construed as constituting a threat to any legitimate national interest of the Soviet Union. Indeed, the objectives were limited—to prevent the use of nuclear missiles against this or any other country, and to secure their withdrawal or elimination from the Western Hemisphere.

The Kennedy Administration resorted to the quarantine because it was the most strategically and tactically sound and least risky of all possible measures. To do nothing was out of the question. The Soviet Union would have gained militarily *vis-à-vis* the United States and politically in Latin America. An airstrike against the existing bases or an invasion with land forces was also ruled out because of the probable effect on neutral nations as well as on the NATO alliance. In addition, the Soviets would have had an excuse for counteraction in Berlin or some other part of the world. Attorney General Robert Kennedy reminded the Executive Committee of the National Security Council of Pearl Harbor: for the United States to attack a small country like Cuba without warning, he said, would create irreparable damage to the U.S. reputation throughout the world, and to its conscience.<sup>24</sup>

Coercion by threat requires that our interests and our opponent’s not be absolutely opposed. It requires finding a bargain, arranging for our opponent

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to be better off doing what we want—worse off not doing what we want—when he takes the threatened penalty into account. The limited naval quarantine imposed around Cuba seems to have met the bill in this case, although doubts existed in the minds of some Kennedy advisers regarding its possible effectiveness. The large-scale naval operation, combined with U.S. firmness in the interception of Soviet missile-carrying ships and scrupulousness in handling other ships, demonstrated that U.S. military action was limited in scope yet comprised definite resolve.

Kennedy's selection of the U.S. Navy as the executor of the quarantine is further evidence of the limited nature of the coercive force used in this conflict. A naval quarantine was by no means the quickest method to exclude offensive arms from Cuban soil. Naval force was used to limit Soviet power in Cuba at its prequarantine level pending clarification of Soviet objectives.

No vessels were reported to have been either forcefully seized or diverted by orders of quarantine force units. No direct military force was used since no confrontation occurred. Rather, of 18 Soviet cargo ships en route to Cuba on 22 October 1962, 16 of them turned back, presumably on orders from Moscow, after the establishment of the quarantine. The remaining two vessels later went through the quarantine screen, perceived by the quarantine force to be carrying no forbidden cargoes. Vessels of third-party states were trailed, inspected, and boarded. Fifty-five merchant ships were allowed to proceed through the barrier between 24 October and 21 November.<sup>25</sup>

A Soviet tanker en route to Cuba was the first to reach the quarantine screen. Her cargo was checked visually from alongside by a unit of the quarantine force and was allowed to proceed to Cuba. On the third day of the quarantine, a Lebanese vessel, under Soviet charter, was boarded by units of the U.S. Navy. No prohibited items appeared in the cargo, and the vessel was allowed to proceed. Since any missiles being transported were in crates on deck, U.S. intelligence was available to indicate which ships needed to be stopped. The United States was thus able to convince the Soviets that the objective was in fact limited to components deemed quarantine restrictive by the United States.

The significance of the quarantine's effectiveness can be reduced to one succinct sentence—it prevented the Soviet Union from gaining a strategic advantage. To accomplish this task, the United States conducted the largest naval operation since the Korean War, involving approximately 183 warships and 1,000 aircraft. In addition, naval vessels from Argentina, the Dominican Republic, and Venezuela also cooperated with U.S. forces in operational activities.

The principles of necessity and proportionality work particularly well if the nations involved in conflict differ significantly in strength. The Cuban operation is a classic example of employing the concept of "superior force," that is, "if one of the two parties engaged in confrontation is significantly

weaker than the other, it is incapacitated from defending the national interest, so that in a dispute over legal rights, the superior force has the advantage of effecting a *fait accompli* without the risk of effective retaliation."<sup>26</sup> The only possible Soviet response, because of its then limited naval power, would have been in a mode altogether different from that of the United States, representing an excessively dangerous degree of escalation significantly disproportionate to the situation at hand. Despite the fact that the Soviets may have been willing to incur great risks by deploying the missiles, Kennedy believed that the Soviets would pull back once the risks became too great. Three weeks of brinkmanship resulted in the Soviets removing the missiles and soon after, the bombers.

Voluntary measures by commercial shippers worldwide to curtail shipping to Cuba, as well as a general unavailability of insurance coverage, made the U.S. surveillance and interdiction task easier by reducing the flow of ships into the area. In addition, a number of nations refused to grant the Soviet Union application for landing and refueling, thereby handicapping Soviet shipments by air. Near the end of October 1962, for example, the Government of Trinidad and Tobago twice refused Soviet requests for a Soviet Ilyushin-18 to land en route from Moscow to Havana.<sup>27</sup>

The success of the strategy pursued by President Kennedy to remove offensive missiles from Cuba resulted from the ability and will of the United States to enforce the quarantine, and from the mobilization of allies and others throughout the world in support of the United States. The confrontation was not in the courtroom, according to Abram Chayes, Department of State Legal Advisor. The United States was armed with something more substantial than "a lawyer's brief." Nevertheless, the side on which the law fell was not irrelevant. Law played a significant role in the effective deployment of force, in obtaining the support of many nations, and in the "ultimate judgment of history."<sup>28</sup>

The legal grounds for making and implementing decisions during the Cuban missile crisis, as well as the implications of stressing certain legal principles over others, have had a major impact on world crises since 1962. A brief discussion of these legal aspects will enable the reader to better understand their significance in the context of today's world.

The United States imposed the naval quarantine in accordance with the recommendation of the Organization of American States (OAS) acting under the Rio Treaty of 1947, which provides for collective defense not only in the case of armed attack but also "if the inviolability or the integrity of the territory or political independence of any American State should be affected . . . by any . . . fact or situation that might endanger the peace of America . . . ." <sup>29</sup> The OAS's "Organ of Consultation" met on 23 October 1962, to consider the evidence regarding introduction of strategic nuclear missiles into Cuba. It recommended that member States "take all measures,



individually and collectively, including the use of armed force, which they deem necessary to ensure that the Government of Cuba cannot continue to receive from the Sino-Soviet powers military materiel and related supplies . . . ”<sup>30</sup>

Worldwide allied support of the quarantine was crucial to its success. Not only did nations contribute operationally to the U.S. effort but politically as well. Near unanimous support of the OAS (by a vote of 19-0, with one abstention), combined with solid support of the NATO allies, is believed to have surprised the Soviet Union and to have accounted for much of its diplomatic confusion during the week of 21 October.<sup>31</sup> President Kennedy was apparently prepared to act alone, but he wanted OAS support before issuing the proclamation which used the Rio Pact as the legal basis for the quarantine.

Differing views exist regarding the legal basis of the Cuban quarantine. The most popular of these debates involves the “right of self-defense,” provided for in Article 51 of the U.N. Charter, and “the common duty to maintain international peace and security,” provided for in Chapter I of the U.N. Charter and the 1947 Rio Treaty. State Department Legal Advisor Chayes acknowledged that “the quarantine was defensive in character and was directed against a threat to the peace.”<sup>32</sup> But neither President Kennedy in his speech nor the OAS in its resolution invoked Article 51 of the U.N. Charter. State Department lawyers in fact recommended against using self-defense as the legal rationale for the quarantine. They believed it was hard to define placement of missiles as an “armed attack,” and second, they feared creating a precedent that the Soviet Union could use for preemptive military intervention whenever it felt threatened by or disapproved of developments in some part of the world.<sup>33</sup> White House legal advisers generally agreed that a unilateral order for a blockade or quarantine could have been justified legally if necessary, but a vote by the Organization of American States provided additional legal strength to the argument.<sup>34</sup>

In today’s nuclear world, the real problem may be one of defining what is meant by “self-defense against an armed attack.” An excessively narrow view of “armed attack” is out of keeping with the dynamic quality of law and with the tempo of the 20th century social complex. Indeed, an armed attack 100 years ago gave a nation time to prepare for its defense. This is no longer the case today—or even 25 years ago at the time of the Cuban crisis—when a threat can be converted at any moment into an armed attack against which adequate defense would be too late.

The United States sought and obtained a legal position and operational concept that would accomplish its purposes with “the appropriate and necessary use of force and with necessary opportunity” to remove the threat by means other than general war. Former Deputy Assistant Secretary of Defense Enthoven described the detailed control over appropriately limited force which President Kennedy executed in the following way: “Each

military move was, in effect, a carefully formulated message from the President to Khrushchev, intended to convince him that the United States would use military force to the extent necessary to achieve removal of the offensive weapons. But each move was also intended to convince him that he could withdraw without armed conflict, if he would withdraw."<sup>35</sup>

The terms "necessity" and "proportionality" constitute the legitimate boundaries of self-defense which, under modern international law, is the principal "legitimate" resort to force. Standardizing guidelines for proportionality is difficult because much depends on the particularities of a conflict. Since World War II, however, a pattern has developed which identifies two principles of conduct regarding proportionality. First, a response during limited hostilities should, if possible, be met in the same mode. That is, "harassment by maneuvers is met with evasion or counter-harassment and not by gunfire."<sup>36</sup> Similarly, to keep within the bounds of necessity and proportionality, a navy responds to surface force with surface force and not with submarine or air attack. The second principle entails confining a response to the geographic area of the attack. Any retaliation outside of the area would be considered escalatory, as all self-defense operations have in practice been localized.<sup>37</sup>

In accordance with these principles, therefore, the Cuban quarantine sought only to neutralize the Soviet effort to destabilize the existing power balance in the Western Hemisphere. The military move involved limited interdiction of surface ships carrying "offensive weapons" and materiel, yet involved no overt application of force. The operation was restricted to areas of the high seas radiating a limited distance from Cuba.

### Arms Interdiction during the Vietnam War

The United States has not, since the Cuban crisis, resorted to another large naval quarantine to interdict weapons of an indisputably offensive nature. It has, however, applied this limited and controlled force concept to a number of other operations. Two examples of arms interdiction, both occurring during the Vietnam War, illustrate further this use of force, albeit in a wartime environment. Although neither operation was successful in completely stopping the flow of arms, each contributed significantly to reducing such movement.

The first example involves the mining of Haiphong Harbor. Resort to mining shifts the use of the seapower into a different and more dangerous mode. In 1968, the United States ruled out mining the Haiphong Harbor "as a disproportionate exercise in self-defense in the conditions of warfare then prevailing."<sup>38</sup> The Administration believed that military necessity to close Haiphong did not exist. Likewise, interfering with foreign shipping would not have been sufficiently proportional to the defense of South Vietnam

against armed attack. The Administration furthermore feared Soviet and/or Chinese retaliation for any such actions.

In May 1972, the United States did resort to mining as a strategic device of self-defense because of the change in the nature of the war. North Vietnam had abandoned its strategy of protracted guerrilla war and decided to force a decision by a major conventional invasion of South Vietnam. U.S. ground combat units were no longer available to support the South Vietnamese forces. Mining became one of the few remaining methods to restrict the overwhelming logistical support available to North Vietnam. Also, a new international situation, including the U.S.-China rapprochement, indicated that there was less chance of a third-party response to U.S. actions.

The operation successfully demonstrated the self-defensive nature of mining in special circumstances. Of the 27 ships in Haiphong when the announcement of the minefield and its activation hour was made public, over a quarter were moving out to sea within three hours.<sup>39</sup> This operation, combined with a heavy bombing campaign against North Vietnam, contributed to reducing the flow of imports into North Vietnam and the movement of supplies to the south. By September 1972, arms flows had been reduced to between 35 and 50 percent of what they had been in May of that year when the mining and offensive bombing of North Vietnam had begun.<sup>40</sup>

Operation Market Time is another example of limited and controlled force during the Vietnam War. In late 1964, evidence emerged that North Vietnam had accelerated its shipment of arms to the south, with sea routes the preferred means of transport. A 1965 report concluded that the only way to stop the supply flow to the Vietcong was for U.S. forces to augment South Vietnamese naval forces along the coast.<sup>41</sup> No action was immediately taken, however, since the increased sea patrols would have to have been accompanied by blocking land and river routes as well. The later discovery in Vung Ro Bay, South Vietnam, of a camouflaged 100-ton steel hull ship carrying a large quantity of arms was the stimulus for creating combined U.S.-Vietnamese patrols along the coast.

Originally, Market Time's primary mission had been to prevent the Vietcong from using the sea to transport arms from sources outside South Vietnam. The mission was soon expanded, however, to prevent seaborne transshipments of contraband from one location to another along the South Vietnamese coast.

The United States received authority from South Vietnam to "stop, board, search and, if necessary, capture and/or destroy any hostile, suspicious craft or vessel found within [its] territorial and contiguous zone waters."<sup>42</sup> The surface operation was backed by patrol planes whose primary mission was to report ships or junks engaged in suspicious behavior.

The operation was credited with having forced the Vietcong to modify their supply system extensively. During 1966, according to estimates, Market

Time cut the enemy's seaborne supplies by 75 to 90 percent.<sup>43</sup> The effectiveness of Operation Market Time turned enemy arms shipments inland. Market Time was then joined by Operation Game Warden, to deny enemy use of major rivers, and by the Riverine Assault Force, for sustained search-and-destroy operations.

Yet, enemy supplies were still entering Vietnam. In the fall of 1968, evidence began to mount that enemy supplies were being transported across the Cambodian border. Since the crossing points were beyond the reach of Game Warden, the United States and South Vietnam mounted a large-scale operation called the Southeast Asia Land, Ocean, River, and Delta Strategy (SEA LORDS). The operation involved assets from Market Time, Game Warden, and the Mobile Riverine Force—as well as elements from the Vietnam Navy—to close off the Cambodian border. The operation, which lasted a little over a year, resulted in heavy Vietcong losses and the destruction or seizure of large quantities of supplies.<sup>44</sup>

### Central America Application

This discussion has shown that a number of options exist for limited and controlled arms interdiction by the U.S. Navy; the latter half of the article dealt with arms interdiction at a lower threat level than that which existed during the Cuban missile crisis. The use of force in the mining of Haiphong Harbor and during Operation Market Time was limited to what was reasonably necessary and proportional to defend U.S. and South Vietnamese interests.

The first and only use of the term “quarantine” occurred during the 1962 Cuban missile crisis. The Cuban quarantine is an example of a large interdiction operation—unique, and probably not soon to be replicated. The threat presented by nuclear weapons on the U.S. doorstep represented an effort so significantly destructive of the *status quo* that U.S. action taken was justified, whether on the basis of self-defense or on that of maintaining international peace and security. The overwhelming support of the U.S. effort shown by a large part of the world community is further evidence of the unique circumstances.

The world of 1986 is not that of 1962. In 1962, the United States was the preeminent power, militarily and diplomatically. Not today. The Soviet blue water navy—although not as capable as that of the United States—poses a much more significant threat to U.S. interests than it did in 1962. Besides, the number of independent developing nations throughout the world has increased considerably. Most of these nations do not wish to be seen as supporting U.S. interests, particularly when such interests involve possible military action in the territory of another developing nation.

A clear threat existed in Cuba in 1962 against which the United States directed a large naval force in response. U.S. objectives were explicit:

remove the nuclear missiles from the island and prevent any other offensive weapons from entering, using the lowest level of coercion/force necessary. The situation which the United States faces in Central America today is very different. First, no clear objectives exist to which an arms interdiction operation can be applied. For example, what types of arms would the Administration consider for quarantine? The action required to stop shipments of advanced MiG fighter aircraft to Nicaragua, for example, would indeed be very different from that required to stop the flow of smaller arms and ammunition from Nicaragua to El Salvadoran rebel forces.

Second, neither of these categories of shipments constitute the type of threat which the United States and the rest of the Western Hemisphere faced as a result of the nuclear missiles in Cuba. Given the importance of the proportionality principle in modern international law, one might question whether any situation in Central America, short of another nuclear threat, would justify the type of major naval operation which occurred around Cuba.

Just as important a consideration is the potential operational futility of a quarantine. Some analysts might conclude that a surface navy quarantine will prevent delivery of MiGs to Nicaragua. But in response the Soviets might simply ship the parts to Cuba and then fly the assembled aircraft into Nicaragua. Another type of military force would then have to be applied to meet the new situation. This is not to say that the presence of advanced fighter aircraft would not be politically damaging to the United States, but a naval quarantine similar to that imposed on Cuba would probably not be the most suitable way to deal with the problem.

Other options exist for more credible arms interdiction in Central America. If, for example, the United States and its allies in the region identified a major arms movement from Nicaragua to rebel forces operating in El Salvador, and perhaps to some extent Honduras, a "law enforcement" type operation could be established on the order of Operation Market Time in Vietnam. The presence of such weapons and associated materiel in the hands of rebel forces would be destructive to the legitimate governments in power because they contribute to internal conflict between indigenous groups and government forces. El Salvador and Honduras could invite the United States into the region to assist them in an arms interdiction operation, which, through collective processes, would contribute to reestablishing international peace and security in the region. By preventing an arms flow to rebel groups in El Salvador and Honduras, one could assume that the groups would be significantly weakened and the governments in power effectively strengthened. A deterrent to further Nicaraguan activity would then exist.

To enforce this policy, U.S. and regional naval forces would mount an operation in El Salvadoran and Honduran territorial waters along the west coasts, and to a lesser extent along the Honduran east coast, to prevent shipments of arms and associated materiel from Nicaragua. Possible arms

shipments from Cuba and elsewhere would also have to be considered. Any quick look at a map of the region, however, indicates that the fairly wide land border between Honduras and Nicaragua would also have to be patrolled by land and air forces in order for the interdiction operation to be effective.



The U.S. Navy would face a shortage of appropriate patrol craft for such a coastal operation. The Navy has historically shown little interest in small combatants in peacetime, in part because of the emphasis on long-range, blue water operations that support Navy primary missions, and because of the belief that the tactics and craft needed for coastal and inshore operations can be developed rapidly if needed.<sup>45</sup> Many of the patrol craft used during Vietnam for similar operations have either been stricken from the fleet, loaned to other U.S. Government or State agencies, or transferred to other nations.<sup>46</sup> Navy participation in a limited arms interdiction operation therefore would probably require agreements with other government agencies for use of necessary patrol craft.

This interdiction operation would respect the principles of nonintervention and the inviolability of frontiers because its purpose would be to prevent movement of materiel into El Salvador and Honduras. Land and air patrols would consist mainly of El Salvadoran and Honduran forces, only supplemented by U.S. surveillance assistance. Because the operation would be confined to El Salvadoran and Honduran territory and territorial waters, it

would draw the least opposition from world nations and, at the same time, satisfy U.S. objectives of strengthening democratic nations in the region. As the Vietnam arms interdiction operations indicated, however, some degree of arms infiltration would probably continue to exist. If the relatively low level of coercion/force inherent in this law enforcement operation is not effective in removing the regional threat, the United States would have to again evaluate its course of action and decide whether escalation to a higher force level is still in keeping with the principles of necessity and proportionality.

The U.S. reaction to the Cuban missile crisis demonstrated U.S. intent to accomplish its purpose with an appropriate yet necessary use of force. The United States conducted other arms interdiction operations discussed herein with similar intent. The strict adherence by the United States to the principles of necessity and proportionality, combined with clearly defined objectives, was the basis for effective arms interdiction operations in the past and should continue to be the basis for any future "use of force in peace."

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### Notes

1. Leslie Gelb, "Isolate Nicaragua If It Won't Bend, Mondale Suggests," *The New York Times*, 18 September 1984, p. 1.

2. Philip Taubman, "U.S. Warns Soviets it Won't Tolerate MiGs in Nicaragua," *The New York Times*, 8 November 1984, p. 1.

3. Bernard Collier, "Idea of Naval Blockade of Nicaragua Drawing Renewed U.S. Interest," *Washington Times*, 6 May 1985, p. 6.

4. Philip Geyelin, "Kissinger Sees the Confusion," *The Washington Post*, 31 May 1985, p. A-23.

5. James F. McNulty, "Blockade: Evolution and Expectation," *International Law Studies*, Richard B. Lillich and John Norton Moore, eds., *Readings in International Law from the Naval War College Review 1947-77*, v. 62, p. 186.

6. D.P. O'Connell, *The International Law of the Sea*, (Oxford: Clarendon Press, 1984), v. II, p. 1095.

7. *Ibid.*

8. International Law Division, Navy Judge Advocate General (JAG), "Blockade and Quarantine," *Office Files*, 13 B1, p. 2.

9. McNulty, p. 188.

10. *Ibid.*

11. D.P. O'Connell, *The Influence of Law on Sea Power*, (Annapolis, Md.: Naval Institute Press, 1975), p. 160.

12. McNulty, p. 187.

13. *Ibid.*

14. International Law Division, Navy JAG, p. 1.

15. The blockade and quarantine concept applies to the interdiction of aircraft as well as to ships. No example exists of aircraft interdiction because of the extreme difficulty in conducting such an operation. Also, only a limited type and quantity of goods can be carried in aircraft.

16. The term "proportionality" can be understood in two senses, according to C.Q. Christol and C.R. Davis (ref. note 17 below). First, it may suggest that national claims, in a sense of goals or objectives, should be proportional to the existing threat to national interests. Second, it may require that the offended state or states should use only such proportional means as are necessary to induce the offending state or states to change their offending course of conduct.

17. Carl Q. Christol and Charles R. Davis, "Maritime Quarantine: The Naval Interdiction of Offensive Weapons and Associated Materiel to Cuba, 1962," *American Journal of International Law*, July 1963, p. 531.

18. U.S. President, Address, "The Soviet Threat to the Americas," *Department of State Bulletin*, 12 November 1962, p. 714.

19. *Ibid.*, p. 716.

20. "Cuban Crisis: A Step-by-Step Review," *The New York Times*, 3 November 1962, p. A-1.

21. "President States U.S. Policy Toward Cuba," *Department of State Bulletin*, 1 October 1962, p. 481. Prohibited materiel included surface-to-surface missiles; bomber aircraft; bombs, air-to-surface rockets

and guided missiles; warheads for any of the above weapons; and mechanical or electronic classes of materiel designated by the Secretary of Defense.

22. "The Soviet Threat to the Americas," p. 718.
23. "Cuban Crisis: A Step-by-Step Review," p. A-1.
24. *Ibid.*
25. Christol and Davis, p. 530.
26. O'Connell, *The Influence of Law on Sea Power*, p. 58.
27. Christol and Davis, p. 529.
28. Abram Chayes, "Law and the Quarantine of Cuba," *Foreign Affairs*, April 1963, p. 550.
29. Abram Chayes, "The Legal Case for U.S. Action on Cuba," *Department of State Bulletin*, 19 November 1962, p. 764. (The quotation in question came from the 1947 Rio Treaty.)
30. *Ibid.*
31. "Cuban Crisis: A Step-by-Step Review," p. A-1.
32. Chayes, "Law and the Quarantine of Cuba," p. 554.
33. "Cuban Crisis: A Step-by-Step Review," p. A-1.
34. *Ibid.*
35. "U.S. Defense Policy for the 1960s," *U.S. Dept. of Defense, News Release*, 10 February 1963, p. 5.
36. O'Connell, *The Influence of Law on Sea Power*, p. 64.
37. *Ibid.*, p. 65.
38. *Ibid.*
39. *Ibid.*, p. 95.
40. Guenter Lewy, *America in Vietnam* (New York: Oxford University Press 1978), p. 411.
41. Keith R. Tidman, *The Operations Evaluation Group: A History of Naval Operations Analysis* (Annapolis, Md.: Naval Institute Press, 1984), p. 264.
42. *Ibid.*, p. 265.
43. *Ibid.*
44. *Ibid.*, p. 269.
45. Norman Polmar, *The Ships and Aircraft of the U.S. Fleet* (Annapolis, Md.: Naval Institute Press, 1984), p. 216.
46. *Ibid.*, p. 221.