

Economic Sanctions and Sovereignty: Balancing Trade Laws and International Norms

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Abstract

In recent decades, economic sanctions have become an increasingly preferred instrument of international diplomacy, aiming to enforce global norms without resorting to armed conflict. However, the expanding use of unilateral sanctions—particularly those with extraterritorial reach—has reignited tensions with foundational principles of state sovereignty and international trade law. Despite their growing prevalence, the legal legitimacy of these measures remains contested, with many occupying a gray area in international law. This study addresses the gap in scholarly consensus on the legal and normative status of unilateral sanctions vis-à-vis multilateral regimes. The central objective is to evaluate whether economic sanctions, especially those not authorized by the United Nations Security Council (UNSC), are legally compatible with principles of sovereignty, non-intervention, and World Trade Organization (WTO) rules. Employing doctrinal legal research, the article analyzes core instruments like the UN Charter, GATT Article XXI, case law, and academic literature. Key findings reveal that while UNSC-backed sanctions enjoy firm legal standing, unilateral sanctions challenge established norms, often triggering disputes over jurisdiction and extraterritoriality. The study concludes that while sanctions may serve legitimate policy aims, their legal justification must balance sovereignty, proportionality, and global normative commitments to maintain legitimacy within the international legal order.

Keywords: Economic Sanctions, State Sovereignty, International Trade Law, Non-Intervention, International Norms.

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1. Introduction

Great powers frequently utilize economic sanctions (Pirani & Naderi, 2024). These actions constitute a punitive response by either a singular nation or a coalition to modify the conduct of states, organizations, or individuals without resorting to military action. These could be travelling bans, asset freezes, trade embargoes, or financial restrictions meant to combat violence, promote human rights, or prevent nuclear war. Over the past three decades, there has been a shift toward the use of sanctions. When force is used, it is either forbidden or impossible. In more than 40 regimes, the European Union (“EU”) employs sanctions as one of the pillars of its Common Foreign and Security Policy to uphold peace and international order and enforce adherence to international law (European External Action Service, 2024). In order to promote global peace and security, the United Nations Security Council (“UNSC”) also imposes sanctions by Article 41 of the UN charter (UNSC Sanctions Overview). There is a perception that sanctions are more justifiable than other forms of punishment and therefore, are preferable to use on the international stage as a solution between negotiations and the use of armed force (Whyte, 2022).

Widely regarded as a cornerstone of modern international diplomacy, sanctions enable states and multilateral bodies to address violations of global norms without resorting to military intervention. These measures are used to deter aggression, constrain terrorism, prevent nuclear proliferation, and promote democracy and human rights. The EU, likewise, describes sanctions as a vital component of its external action, imposed in over 40 regimes to “safeguard international peace and security, prevent conflict, and support human rights and the rule of law” (European External Action Service, 2024). Meanwhile, the United States Treasury’s Office of Foreign Assets Control (“OFAC”) manages over 30 sanctions programs, emphasizing its role in defending national security and advancing foreign policy goals, including holding authoritarian regimes accountable. Scholars increasingly note that sanctions serve not only as practical instruments of coercion but also as symbolic tools that reinforce the international community’s normative commitments (Drezner, 2011; Whyte, 2022). Their growing frequency in global affairs reflects a shift toward economic statecraft as a middle ground between diplomacy and war.

However, they frequently collide with foundational principles of state sovereignty and International Trade Laws (“ITL”). United States (“US”) sanctions—particularly secondary and extraterritorial sanctions project American jurisdiction beyond its borders, directly confronting the concept of external independence that characterizes sovereignty and generating legal

conflict with host-state laws (Jaeger,2021). Likewise, global “*Magnitsky*” human rights sanctions—administered unilaterally by states such as the US targeting foreign individuals—raise debates over extraterritoriality and legal legitimacy within the international order (Yifan Jia,2023). Sanctions are inherently at odds with fundamental WTO which normally associates International trade regulations with notions of security, predictability, and stability in global economic relations (Althabhwawi,2024). Scholars have called for stricter oversight and clearer interpretive guidelines to prevent economic protectionism from being disguised as security concerns, although the WTO treaties include a security exception under General Agreement on Tariffs and Trade (“GATT”) Article XXI. This is because Article XXI (b) is ambiguous and self-judging, making it vulnerable to potential misuse (Sefriani et al,2024).

2. Methodology

This study adopts a doctrinal legal research approach, focusing on the interpretation and analysis of international legal texts, case law, and scholarly commentary. This method is common among legal literature (Althabhwawi, 2014). It critically engages with primary legal instruments such as the UN Charter, the GATT, and WTO provisions, particularly about the legality and limits of economic sanctions. Secondary materials, including academic journals, policy papers, and legal opinions, supplement this foundation to provide a comprehensive examination of state practice and normative evolution. Case studies, including United Nations (“UN”) sanctions against South Africa, US sanctions on Iran, and the multilateral response to Russia’s actions in Ukraine, serve as empirical illustrations of how sanctions intersect with the principles of sovereignty and ITL. This study examines important judicial decisions such as the Nicaragua case and the WTO Panel ruling in Russia – Traffic in Transit, to illustrate how courts and tribunals are reasoning on the equilibrium between coercive economic measures and state sovereignty. This research visa competing viewpoints using a coherent legal and normative framework to evaluate the balance of the theory of sanctions in modern International Law.

3. Legal Foundations of United Nations Sanctions under the Charter Framework

The UN Charter gives the Security Council the authority to impose necessary measures meant to maintain or restore international peace and security. According to Article 24(1), UN Member states assign “primary responsibility for the maintenance of international peace and security” to the Security Council. Accordingly, Article 25 states that members “accept and carry out”

Council decisions under the Charter. All UN Members are essentially bound by any Chapter VII resolution, such as a sanctions regime that the Council adopts. This rule is further supported by Article 48, which upholds members' duties to implement Council resolutions to preserve peace. In Chapter VII of the UN Charter, the Security Council is given the authority not only to impose sanctions and establish peacekeeping operations, but also to authorize the use of force against states (Azmi et al,2023). These provisions make clear that Security Council measures have an international legal foundation: member states cannot invoke domestic or other treaty laws to disregard a duly adopted UN sanctions resolution.

Article 41 of the UN Charter explicitly empowers the Security Council to impose non-military enforcement measures. It provides that "[t]he Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the UN to apply such measures". In practical terms, this article authorizes the Council to demand states enforce economic and diplomatic sanctions against a target. Article 41 enumerates examples: "complete or partial interruption of economic relations" and "the severance of diplomatic relations," among other measures. The UNSC has routinely been invoked to establish sanction regimes. As the UNSC's own Repertoire observes, "among the most common measures... are those measures that are known as sanctions", including economic and trade sanctions, travel bans, financial or diplomatic restrictions. Thus, Article 41 supplies a clear legal basis for multilateral economic sanctions: they are measures "decided" by the Council to enforce its peace and security decisions.

Article 25 provides the binding force of Security Council resolutions. It states: "The Members of the UN agree to accept and carry out the decisions of the Security Council in accordance with the present Charter." In other words, once the Council acts under the Charter, especially Chapter VII, all member states are bound to implement those decisions. This Article has been interpreted and confirmed by the International Court of Justice ("ICC") in cases like *Namibia* (International Court of Justice [ICC], 1986) as creating a mandatory duty on members. For sanctions, Article 25 means that every UN Member must honor and enforce UN-mandated sanctions as a matter of international obligation. Accordingly, if the state in question disregards the Security Council's recommendation, which carries the presumption of legal validity, it would constitute a breach of the UN Charter, and the Security Council can resort to the remedies outlined in Articles 6, 11(2), and 39 of the UN Charter (Alipour,2023).

When a conflict arises between a measure adopted by the UNSC and any other international obligations such as commitments under trade treaties or regional agreements, the obligation to comply with the Security Council's decision takes precedence. Article 103 of the UN Charter establishes the primacy of Charter obligations, including UNSC decisions, over all other international treaty commitments (Sthoeger, 2024). Article 103 provides: "In the event of a conflict between the obligations of the Members of the UN under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail." These broad powers give the Council something of a supreme position in international law, given their unparalleled nature and their potential to bind even non-member states (Farral, 2007). In practical terms, if a state's commercial or trade obligations, such as those under WTO rules or bilateral investment treaties- conflict with a mandatory UN sanctions regime, Article 103 of the UN Charter gives primacy to the Charter duty. The Charter's higher status provides legal clarity and certainty for UN-authorized sanctions, as it explicitly preempts conflicts with other legal regimes. As one commentary notes, Article 103 makes WTO or other trade obligations "subordinate to UN obligations" when there is conflict (Bhengu, 2014).

Several other Charter provisions underpin the Security Council's authority to impose sanctions and are grounded in Article 24(1) of the Charter of the UN, which assigns the Council the primary responsibility for maintaining international peace and security. Member states, by ratifying the Charter, have conferred this political and legal responsibility upon the Council, forming the foundational basis for all its actions, including the imposition of sanctions. Further obligations regarding implementation are articulated in Articles 48 and 49 of the Charter. Article 48(1) obliges member states to take all actions necessary to carry out the decisions of the Security Council, thereby reinforcing the collective duty of compliance found in Article 25. Article 49 extends this responsibility by requiring states to provide mutual assistance in implementing the Council's decisions. These provisions collectively emphasize that the execution of Security Council sanctions is a shared responsibility among all UN Member States. In recognition of the broader economic impacts that sanctions may cause, Article 50 of the Charter allows third-party states that suffer economic hardship because of the enforcement of sanctions to request assistance from the UN. Although rarely invoked, this provision reflects the Charter's acknowledgment that sanctions are extraordinary international measures. As such, they require not only legal legitimacy but also procedural safeguards to mitigate unintended consequences.

Because sanctions mandated by the UNSC are adopted through the multilateral processes of the Charter and backed by foundational provisions such as Articles 24, 25, 48 and 103, they enjoy unequivocal legal authority. The sanctions regime endorsed by the Security Council constitutes the collective will of the international community acting under Chapter VII. Only sanctions adopted under Security Council authority achieve this coherent legal status, whereas unilateral measures lacking Charter authorization frequently prompt disputes within trade or investment law frameworks (De Wet, 2005).

4. Evolving Notions of State Sovereignty

4-1. The Westphalian Inheritance: Sovereignty as Territorial Autonomy

Under the classical Westphalian model, each state possessed absolute authority over its territory, free from external interference. Scholars note that the 1648 Peace of Westphalia established this principle: Morgenthau observes that Westphalia “made the territorial state the cornerstone of the modern state system,” formally recognizing the supremacy of the state within its borders (Osiander, 2001). Others similarly describe the settlement as having “formally recognized the concept of state sovereignty” and established “a system of sovereign states” (Spruyt, 1994). According to Bring (2000), the Westphalian Peace Tradition enshrined the principle that governments are regarded as unequivocally sovereign within their territorial jurisdiction, and other states are forbidden from intervening in their domestic affairs.

4-2. United Nations Charter Provisions and the Principle of Non-Intervention

The UN Charter firmly affirms the core tenets of state sovereignty. Article 2(1) declares that “the Organization is based on the principle of the sovereign equality of all its members,” thereby confirming the equal legal standing of each state under international law. This is reinforced by Article 2(4), which requires that “All Members shall refrain... from the threat or use of force against the territorial integrity or political independence of any state,” thus prohibiting military coercion as a means of breaching sovereignty. Further, Article 2(7) safeguards the internal autonomy of states by providing that “nothing contained in the present Charter shall authorize the UN to intervene in matters which are essentially within the domestic jurisdiction of any State.” United Nations General Assembly (“UNGA”) Resolution 2625 (1970) states flatly that “no State or group of States has the right... to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State”. It goes on to condemn “armed intervention and all other forms of interference or attempted threat... against the personality of the State or against its political, economic and cultural elements”. Likewise, the 1981 UN

Declaration on non-intervention forbids economic reprisals or blockades as tools of coercion. In legal interpretation, Article 2(7) of the Charter is thus seen as a specific embodiment of this non-intervention norm. In sum, states accept under international law that they have a sovereign right to govern their internal affairs and that other states must not intrude in those domains by force, economic pressure, or any other means.

4-3.Limits to Sovereignty: Jus Cogens, Human Rights and Collective Security

Several fundamental international norms can override state sovereignty. A state and its people collectively may claim a degree of “privacy” by its sovereignty. However, in an increasingly interdependent world, it is a strong belief that the time has come to expand international cooperation (Othman, 2000). Chief among these are peremptory jus cogens norms. A jus cogens norm is “accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted” (International Law Commission [ILC], 2019). Norms like the prohibitions on genocide, slavery, and torture are widely considered jus cogens; consequently, any treaty or act that conflicts with such a norm “becomes void”. In other words, sovereignty cannot be used to justify violations of these core principles. Similarly, basic human rights standards – reflected in the UN Charter’s commitment to “universal respect for, and observance of, human rights” – impose limits on what governments may do even within their borders. Many regional accords link legitimacy or benefits to free elections and respect for the rule of law, reflecting a growing norm of democratic government that is not yet legally obligatory as jus cogens. Lastly, coordinated responses to threats are supported by the UN’s Article 1 Charter responsibility to uphold international peace and security. The international community has decided that it is acceptable to disregard limited notions of sovereignty in the interest of peace or humanity when a state’s actions constitute a serious threat, such as armed aggression or mass atrocities. This concept is embodied by ideas such as the R2P, which holds that sovereignty includes the duty to prevent serious abuses of human rights. Thus, peremptory norms, human rights obligations, and the overarching aim of global peace operate as higher-order constraints on state sovereignty.

4-3-1.United Nations Security Council Sanctions on South Africa during the Apartheid Era

The international community gradually applied collective penalties to isolate Pretoria during the apartheid era. Beginning in the early 1960s, the UNGA condemned South Africa’s racial laws—such as through Resolution 1761 in 1962—and urged member states to adopt sanctions. By the 1980s, domestic

and multilateral actors had instituted arms and trade embargoes, financial restrictions, and investment ban. Although these sanctions directly challenged South African sovereignty, they were framed as the enforcement of a global norm against racial discrimination and apartheid. International legal scholars note that apartheid was declared a crime against humanity under the 1973 Apartheid Convention, a *jus cogens* norm (United Nations General Assembly [UNGA], 1973; Human Rights Watch [HRW],2021). Activists explicitly celebrated economic sanctions as a mechanism to advance a global norm of racial equality in South Africa (Klotz,1995). In practice, sanctions crippled the apartheid regime: President F.W. de Klerk acknowledged that the sanctions' economic burden became unsustainable, and Nelson Mandela later affirmed that "there is no doubt" sanctions contributed to the end of apartheid. Although scholars continue to debate the precise impact of sanctions versus internal factors, their normative justification was widely accepted because apartheid constituted a fundamental violation of human rights (Review of International Studies, 1996; Cambridge University Press,2009). Similarly, the rise of Islamic State of Iraq and the Levant ("ISIS") in Iraq and Syria illustrates how the international community may adopt targeted sanctions—such as oil export bans and asset freezes—to disrupt non-state actors whose activities, including illicit control of oil resources and the destabilization of trade networks, pose a grave threat to international peace and security (Abdullah, et al.,2025).

5.The Legal Controversy Surrounding Unilateral Sanctions

Unilateral sanctions are those imposed by one state or a group of like-minded states without broad international endorsement. A classic example is the long-standing US embargo on Cuba, which the US maintains on its authority (Mishra,2024). In practice, numerous countries, including the EU and the United Kingdom ("UK"), also implement their autonomous sanction regimes. These are often directed at states such as Russia or Iran and are not authorized by the UNSC (Fellmeth,2023). Such measures typically include trade embargoes, asset freezes, and restrictions on investment, all designed to exert pressure on foreign governments or specific individuals and entities. For instance, the US unilaterally imposes sanctions on countries like Iran, North Korea, and Russia as part of its broader foreign policy strategy.

5-1.Unilateralism and the Question of Legality

Fellmeth (2023) emphasizes that no international agreement or customary rule prohibits a state from refusing trade or investment for policy reasons. Indeed, the WTO framework specifically preserves broad security exceptions: Article XXI of GATT allows members to adopt trade measures for national security

or to comply with UN resolutions, which US sanctions regimes routinely invoke (WTO,1995). In this view, unilateral sanctions are not per se “use of force” under the UN Charter; they are generally characterized as peaceful measures reflecting territorial sovereignty over trade.

Nonetheless, many states and scholars, especially from the Global South, argue that large-scale sanctions can amount to coercion forbidden by Article 2(4). In Nicaragua (1986), the ICJ drew a sharp distinction between armed aggression and other measures, implying that only grave forms of the use of force, such as military force—violate Article 2(4). Reflecting this, Batinga (2024) observes that wealthier states have long interpreted the Charter instrument-based, insisting that only overt military violence implicates Article 2(4) and thus exonerating purely economic sanctions. Newly independent states, however, advocated during the 1960s that Article 2(4) should cover any kind of coercion. Some commentators now stress a scale-and-effects approach: if a sanction’s impact is comparable to that of a use of force, it might qualify as a Charter violation. Under this view, “extraterritorially applied and comprehensive” sanctions could count as a use of force if their “scale and effects” (Batinga, 2024). In practice, however, the “global North” approach remains dominant. UN resolutions condemn any unilateral sanctions, for example, UNGA Resolutions 60/185 in 2005, 69/180 in 2014, and 75/181 in 2020—but none posits a general rule of international law prohibiting them. Those resolutions and repeated UNGA votes – reflect political disapproval but lack binding force and have not crystallized into custom. Such UNGA and Human Rights Council condemnations are not unanimous and cannot by themselves create new law (Fellmeth, 2023). Likewise, no international tribunal has held unilateral sanctions illegal per se, and many court decisions have upheld US sanctions as within domestic competence.

Instead, some scholars argue that certain unilateral sanctions may be comparable to lawful countermeasures or retorsions—non-coercive acts taken in response to internationally wrongful conduct. However, this view remains controversial, as most sanctions tend to be punitive and sweeping rather than limited and targeted responses. The UN Special Rapporteur on unilateral coercive measures maintains that sanctions are lawful only when authorized by the Security Council or imposed by an injured state as proportionate countermeasures (Douhan,2023). It is concluded that the majority of unilateral sanctions do not meet the criteria for lawful exceptions and can therefore be regarded as illegal unilateral coercive measures. This strong stance remains highly contested. Critics such as Fellmeth (2023) argue that neither Douhan (2023) nor her supporters have demonstrated the existence of

a binding customary rule prohibiting unilateral sanctions. The evolution of al-Qaeda provides a telling example of how non-state armed groups have been addressed through both unilateral and multilateral sanctions. The group's early years, rooted in the Soviet–Afghan conflict, saw it develop transnational operational capacity. International sanctions on Sudan in the mid-1990s pressured the state to expel Osama bin Laden, demonstrating sanctions' coercive potential but also their impact on state sovereignty. Ultimately, the legal status of such measures remains unsettled—while numerous states view them as incompatible with the UN Charter and broader international norms, those imposing sanctions maintain they are legitimate expressions of sovereign authority.

5-2. Tensions with Sovereignty and Non-Intervention

Unilateral sanctions are often criticized for infringing on state sovereignty and violating non-intervention norms. The 1970 UN Declaration on Principles of International Law—UNGA Resolution 2625 (XXV)—articulates a classic counter-argument. It asserts that every state has an “inalienable right to choose its political, economic, social and cultural systems without interference in any form by another State” and emphasizes that “no State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State” (UNGA, 1970:1–2). The Declaration further states that “no State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights” (UNGA, 1970:3). Although these principles are non-binding, they reflect a near-universal norm of sovereign equality and non-intervention; consequently, many analysts view unilateral—and especially extraterritorial—sanctions as prohibited interference.

States contesting US sanctions frequently invoke sovereignty and non-intervention principles. For instance, following the 1996 Helms–Burton Act—which extended sanctions to third-country firms engaging with Cuba—the EU and numerous UN Members condemned it as unlawful. A UNGA explanation emphasized its extraterritorial provisions “affect the sovereignty of other States, the legitimate interests of entities under their jurisdiction, and the freedom of trade and navigation” (UNGA, 2000:2). In November 2019, the Assembly, by a vote of 120 to 1, called for an immediate repeal of the Cuba embargo and explicitly criticized Helms–Burton's extraterritorial reach as violating state sovereignty (UNGA, 2019). Ultimately, these extraterritorial sanctions generate both legal and diplomatic contention by effectively imposing US law on foreign jurisdictions, infringing upon other states'

sovereign authority, and often prompting retaliatory measures or disputes before bodies such as the WTO.

Batinga (2024) contends that sanctions “coerce states into modifying or severing their trade relations in violation of the fundamental sovereignty rights outlined by the ICJ.” He distinguishes between primary sanctions—applied within a state’s own jurisdiction—and secondary sanctions, which extend beyond national borders. According to Batinga, the latter represent the exercise of extraterritorial jurisdiction and, without a legitimate jurisdictional link, amount to a violation of the principle of non-intervention.

5-2-1. Interpretation of Non-Intervention: Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), ICJ Reports 1986

In Nicaragua, the ICJ clarified the contours of the customary international law principle of non-intervention. The Court held that any intervention becomes unlawful when it employs methods of coercion to influence a state’s sovereign freedom to determine its political, economic, social, or cultural system. In articulating the concept of domestic jurisdiction, the Court underscored that a state’s internal policy decisions must be protected from external coercion, declaring coercion to be “the very essence” of prohibited intervention. Nevertheless, the Court declined to issue a blanket prohibition on unilateral economic sanctions. In evaluating the US’s measures against Nicaragua—including aid reductions, trade embargoes, and import quota changes—it concluded that such acts on the economic plane could not, in and of themselves, be considered breaches of the non-intervention norm. As a result, the Court did not find the embargo itself unlawful under customary international law. This conclusion has often been interpreted as a restrictive reading of the non-intervention principle. By limiting the judgment to cases involving armed support or direct use of force, the Court left unresolved whether economic pressure alone might violate state sovereignty. As some scholars have noted, the boundaries of coercion that fall below the use-of-force threshold remain underdeveloped in legal doctrine. While Nicaragua reaffirmed the centrality of coercion in assessing intervention, its ambiguous stance on economic sanctions has left the legality of economic coercion open to continued debate in international law.

6. Reconciling Sanctions with Sovereignty

6-1. Sovereignty as a Legal Barrier to Extraterritorial Sanctions

According to Julié, Menegon, and Murgier (2024), the sovereignty of all states is a fundamental principle, and the extraterritorial application of domestic law is theoretically prohibited as it conflicts with state sovereignty. From this view, sanctions by foreign governments are seen as unlawful

interference with a nation's self-determination. Modern sanctions frequently use long-arm jurisdiction to ensnare foreign actors. For example, US sanctions may target any company that conducts a dollar transaction or has a US subsidiary, even if the activity is legal under its home law. In practice, a US firm's enforcement notice might force a European bank to choose between its market and US sanctions, effectively extending US law overseas. Commentators note that when a state legislates against the conduct of foreign businesses, "the sovereignty of other States may be affected as well" (Müller, 2020). Likewise, it is observed that such sanctions "affect the sovereignty of foreign States" by dictating choices for third-country firms (Jaegar, 2021). Sanctions violate a state's right to manage its own economy and trade relationships. By coercing foreign companies, sanctions can impede a target's domestic development policies or market choices. Such measures are often challenged as violations of non-intervention; for example, European states have publicly denounced US secondary sanctions on Iran and Cuba as infringements on their sovereignty. In response, affected states may enact countermeasures, like blocking statutes or alternative payment channels, to defend their jurisdiction.

6-2. Sovereignty as Responsibility under International Law

Since 2005, all UN Members have endorsed the principle that sovereignty entails responsibilities. The 2005 World Summit Outcome Document affirms that "each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity". Significantly, it also states that where a state is "manifestly failing" to uphold this responsibility, the international community, acting through the UNSC, should be prepared to take collective action under Chapter VII of the UN Charter to protect affected populations. This R2P framework redefines sovereignty as conditional: leaders who perpetrate or permit mass atrocities against their populations may be deemed to have forfeited the shield of sovereign immunity.

Under the responsibility paradigm, sanctions are regarded as instruments to uphold fundamental human rights. When regimes perpetrate mass atrocities or engage in systematic oppression—such as through genocide or apartheid—many scholars and governments consider sanctions to be both morally justified and legally legitimate. In this view, sovereignty does not provide immunity from international pressure when a state violates core international norms. As one scholar aptly observes, sovereignty today "can no longer be seen as a protection against interference, but as a charge of responsibility

where the state is accountable to both domestic and external constituencies” (Thakur,2006).

This shift underpins historical sanctions regimes. For instance, the global community regarded apartheid-era South Africa as perpetrating crimes against humanity, thereby justifying UN-mandated arms and trade embargoes (UNSC,1977). Likewise, the UN and various regional bodies have imposed sanctions on governments responsible for grave human rights violations, such as coordinated civil wars, ethnic cleansing, or unconstitutional seizures of power (Biersteker et al,2016). In each instance, advocates of sanctions invoke the R2P or foundational human rights principles to argue that sovereignty is not being violated but rather reaffirmed, in the sense of protecting a state's population from its leaders.

7. Legal Interface between Sanctions and International Trade Law

The WTO is founded on principles of non-discrimination, particularly the MFN treatment under GATT Article I and the national treatment obligation under Article III. Sanctions that prohibit or restrict trade with specific countries arguably violate these obligations, as they treat imports or exports from certain members less favorably. Such restrictions can amount to quantitative limitations or other non-tariff barriers inconsistent with GATT Article XI. However, WTO law does recognize limited exceptions to these rules, the most controversial of which is Article XXI—the so-called “security exception.” GATT Article XXI provides that “[n]othing in this Agreement shall be construed to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests...” (GATT,1947). While the provision lists illustrative contexts, such as wartime or emergencies in international relations, it crucially allows members to make their determinations. This article permits countries to take necessary actions to protect their essential security interest (Yee et al.,2024). This phrasing has led to long-standing debate over whether Article XXI is self-judging or subject to review. As Mitchell and Nzelibe (2006) observe, the “inherently subjective nature of ‘security interests’ makes it difficult to distinguish between legitimate and abusive uses” of Article XXI.

Until recently, the WTO's Dispute Settlement Body refrained from challenging states' invocations of Article XXI. The prevailing assumption was that national security determinations were beyond judicial review. However, in Russia (DS512), the Panel broke new ground by asserting that while members have some discretion, their use of Article XXI is subject to good faith limitations and must fall within the listed circumstances (WTO Panel Report,2019). This decision, while cautious, signaled a shift in WTO jurisprudence: security exceptions are not entirely beyond legal scrutiny.

In the Russian Federation – Measures Concerning Traffic in Transit (WT/DS512,2019), a WTO Panel for the first time addressed the security exception under Article XXI of the GATT. Ukraine challenged Russian import bans and transit restrictions, which had been imposed after the annexation of Crimea, as inconsistent with the freedom-of-transit obligations under GATT Article V. In response, Russia invoked Article XXI (b) (iii), asserting that the measures were necessary for the protection of its essential security interests during a time of emergency in international relations. Significantly, the Panel rejected Russia’s argument that Article XXI was entirely self-judging. It found that the wording “which the Member considers necessary” did not place such decisions entirely beyond review. The Panel held that it had jurisdiction to examine Russia’s reliance on Article XXI (b) (iii), and in doing so, it affirmed that the existence of an “emergency in international relations” is an objective matter to be assessed by the tribunal, rather than something that can be determined solely by a state’s declaration. Adopting a broad interpretation, the Panel concluded that the crisis in Ukraine in 2014 did amount to an emergency and that Russia’s trade-restrictive measures were plausibly linked to the protection of its security interests. In effect, the Panel accepted Russia’s evidence of an external threat as sufficient justification. Although Ukraine might have successfully established a violation of Article V had this been a situation of peace, the Panel held that Russia’s invocation of Article XXI exempted it from its transit obligations due to the emergency circumstances. Importantly, the Panel applied a relatively lenient standard of proof, which has been described as requiring that the claim be “not implausible.” Russia was able to illustrate the need for its measures as a result easily. The Panel acknowledged the risk of abuse, even if detractors claim that this method allows WTO members broad discretion to depend on national security exceptions. It cautioned against using Article XXI as a pretext for protectionist policies. However, Russia was able to defend itself successfully because of the low standard of proof. In conclusion, the Russia–Transit ruling interprets Article XXI broadly, which raises questions about the effectiveness of trade regulations when national security is unilaterally asserted.

When unilateral penalties are implemented outside of multilateral institutions, the legal ambiguity of Article XXI becomes especially controversial. For example, the US has used foreign policy and national security arguments to impose extensive trade restrictions on nations like Iran and Cuba for decades. These sanctions often extend to non-US companies—especially European firms—under so-called extraterritorial or “secondary” measures. The EU has raised concerns that such actions violate WTO obligations and infringe upon

its economic interests (Gheyle & De Ville,2017). The European Commission has even described US sanctions on Iran as “extra-territorial application of third country laws” inconsistent with international trade norms (European Commission,2018).

This legal and political tension is exemplified in the case of Iran. From 2006 onward, the UNSC imposed binding sanctions on Iran’s nuclear and missile programs through resolutions such as 1696, 1737, and 1929, mandating asset freezes and bans on sensitive exports (UNSC,2006). These restrictions were lifted under Resolution 2231 when Iran agreed to the Joint Comprehensive Plan of Action in 2015 (UNSC,2015). However, the US withdrawal in 2018 marked a turning point, as President Trump reinstated all nuclear-related sanctions and introduced a broader “maximum pressure” campaign targeting Iran’s oil, banking, and trade sectors (HRW,2019). These measures extended extraterritorial reach by penalizing non-US firms that continued lawful dealings with Iran under their laws (Geranmayeh & Rapnouil,2019). In response, the EU revived its 1996 Blocking Statute and introduced INSTEX to facilitate trade outside US financial channels (Gibson Dunn,2020). Despite humanitarian exemptions, human rights groups have shown that sanctions drastically constrained Iran’s ability to import essential medicines and food, severely affecting the population’s access to healthcare (HRW,2019). While the US invokes the GATT Article XXI security exception to justify these measures, many argue they breach WTO norms and interfere with Iran’s sovereign economic rights (Geranmayeh & Rapnouil,2019).

Scholars have debated whether such sanctions are genuine expressions of security policy or disguised protectionism. Howse and Teitel (2010) argue that invoking national security must be narrowly construed to prevent abuse, noting that overly broad interpretations risk transforming Article XXI into a loophole for trade discrimination. In practice, however, the WTO has limited tools to constrain politically motivated sanctions. The reluctance to adjudicate sensitive disputes—particularly those involving US foreign policy—means that the legal boundaries of Article XXI remain contested. In summary, the intersection of sanctions and ITL remains a fraught legal domain. Although GATT Article XXI provides a way to balance national security and commercial responsibilities, its ambiguous wording and governments’ strategic use of it have led to ongoing legal ambiguity. Finding a balance between upholding a stable, rule-based economic system and honoring valid state interests is still a difficulty as the WTO develops.

8. The Balancing Challenge: Sanctions, Sovereignty, and Legitimacy

8-1. Is Navigating Legal Ambiguities in the Sanctions–Sovereignty Relationship

A recurring legal and normative conflict at the center of this discussion is how the fundamental idea of state sovereignty and unilateral economic sanctions can coexist. Since states have long regulated trade and finance on their own terms, the law does not forbid the implementation of sanctions in general. However, this independence clashes with international obligations, particularly those outlined in the UN Charter. The integrity of home jurisdiction, allegiance to the collective system, and forcible interference are all expressly limited by Articles 2(4), 2(5), and 2(7). Sanctions run the risk of being presented as breaches of these fundamental agreements when they are implemented unilaterally and without global support. A crucial uncertainty emerges from the discussion: unilateral penalties are neither specifically permitted nor categorically prohibited by international law. This legal ambiguity has allowed for a variety of interpretations. Some contend that the practice is acceptable in the absence of a treaty prohibition, while others point out that their legitimacy and legality are called into question by the repeated denunciations by human rights organizations as well as their extraterritorial consequences. Thus, the question of whether sanctions are legal in and of themselves is less important than the circumstances in which they become illegal coercion.

A more lucid legal framework is provided by multilateral sanctions, especially those approved by the UN Security Council. They are at least theoretically subject to communal examination and enjoy procedural legality as Chapter VII activities. Even UN sanctions, meanwhile, need to be carefully considered. A move toward targeted measures and safeguards has resulted from the Security Council's need to address the unintended humanitarian impacts of sanctions over time. This development implies that proportionality and respect for human rights remain essential components of legitimacy even after legal authority has been created. In contrast, punishments that are unilateral or plurilateral have problems with legitimacy. They are frequently defended as instruments to enforce international standards, including non-proliferation or human rights, but without support from other countries, they run the risk of being seen as acts of economic pressure rather than morally just enforcement. Concerns about extraterritorial jurisdictional reach and violations of sovereign equality are heightened by the use of domestic legislation. Furthermore, the international legal order may become fragmented and confusing as a result of these actions colliding with other treaty commitments, such as those under the WTO.

In the end, legal classification alone cannot address the problem of balance. It necessitates a more thorough examination of the changing function of sovereignty itself. Sanctions might be required correctives if sovereignty is no longer a cover for misuse. However, unrestrained unilateralism presents significant hazards if sovereignty continues to protect states' ability to determine their own economic future. The ability of the international community to forge consensus, establish boundaries, and make sure that enforcement procedures don't turn into tools of injustice will be just as important as legal regulations in achieving a long-term balance between various points of view.

8-2. Legal Reform and Institutional Adaptation

Clear legal frameworks are necessary to strike a practical balance between penalties and sovereignty, particularly where security considerations are involved. According to recent WTO decisions, trade law is starting to improve its methodology. The panel in the Russia-Transit case, for example, clarified that the Article XXI security exception is not wholly self-judging. States must instead show a genuine worldwide emergency and a convincing connection to their fundamental security interests (WTO,2019). This demonstrates an increasing readiness to examine security-based arguments objectively. In the future, WTO members might use procedural changes or interpretive statements to formalize these principles. Preventing states from misusing the security exemption as a pretext for economically driven political pressure is the aim. Additionally, institutional improvements have surfaced in the context of UN sanctions. A significant advancement is Resolution 2664 (2022), which establishes a general humanitarian exemption for all asset-freeze regimes. It reflects a recognition that sanctions should never compromise basic needs like food, medicine, or fuel (UNSC,2022). At the same time, legal scholars have long urged the Security Council to improve transparency and accountability in its sanctions processes—for instance, by clarifying listing criteria, enabling independent review, and publishing impact assessments (Chatham House,2023). These recommendations aim to preserve the legitimacy of sanctions while aligning their implementation with fundamental principles of fairness and proportionality.

Meanwhile, secondary sanctions, especially those with extraterritorial reach, continue to generate legal friction. Many argue that these measures violate established jurisdiction limits and distort the sovereignty of third-party states (Guzman,2021). Proposals to curb them include treaty-based legal challenges, international declarations on economic coercion, or clearer exemptions for humanitarian trade. Some states have responded by creating workaround mechanisms like blocking statutes or special financial channels, though these

often remain reactive and piecemeal. For meaningful reform, any regime of secondary sanctions should integrate systematic humanitarian carve-outs, transparent justifications, and legal predictability. The international community can only guarantee that sanctions continue to be valid tools of policy without compromising fundamental moral and legal principles by implementing such reforms.

9. Conclusion

One of the most controversial tools of international affairs is still economic sanctions. They are frequently used to support international standards like non-proliferation and human rights, but they also undermine the fundamental idea of sovereign equality. A recurring problem has been highlighted in this paper's examination of the legal frameworks controlling sanctions, specifically under the UN Charter, WTO regulations, and customary international law: unilateral sanctions exist in a legal grey area, lacking an explicit ban but frequently criticized. According to the study, international sanctions, especially those approved by the UNSC, benefit from having a more distinct legal basis and legitimacy, even though they also need to adhere to humanitarian and proportionality principles. On the other hand, unilateral sanctions present serious moral and legal issues, particularly when they have extraterritorial implications. They have the potential to erode global trade standards, impede national sovereignty, and incite geopolitical division. In the end, the validity of penalties must be assessed not only by their legal basis but also by how well they adhere to the changing ideals of global solidarity, proportionality, and non-intervention. A new equilibrium is needed, one that ensures accountability for serious transgressions of international law while preserving state authority. If sanctions are used, they must be transparent, based on principles, and focused on justice rather than coercion.

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