



LIMITS OF THE SECURITY COUNCIL'S AUTHORITY IN IMPOSING ECONOMIC SANCTIONS

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Abstract:

Economic sanctions are one of the most important forms of international sanctions, which is why they have received considerable attention from countries and international organizations. Economic sanctions take various forms, including threats, naval blockades, boycotts, and penalties for non-compliance.

The Security Council has broad powers to assess the actions of the offending state, which may fall under one of the situations listed in Article 39 of the United Nations Charter. However, the Security Council's freedom to impose sanctions is limited by legal, political, and humanitarian constraints.

Keywords: Economic sanctions, Security Council, authority.

INTRODUCTION:

Economic sanctions imposed under the auspices of the United Nations have become more acceptable in today's international society, especially after 1990, due to international changes within the so-called new world order. The Security Council works to maintain international peace and security by imposing these sanctions on states that violate international rules. However, in certain international cases, the Security Council uses its authority to impose economic sanctions on states that it believes have disrupted or threatened international peace and security. This has led to the imposition of so-called economic sanctions, which act as an economic blockade and total isolation of the sanctioned state, resulting in negative effects and serious repercussions for the people of that state.

This raises the question:

What are the powers of the Security Council in applying international economic sanctions?

Section One: The Nature of International Economic Sanctions

The topic of economic sanctions is one of the most pressing issues that has garnered international attention due to its significance as a non-military mechanism employed by the United Nations to maintain international peace and security¹. Other international organizations also use economic sanctions to deter states that fail to meet their obligations, leading to their application in many complex international issues. This type of sanction differs from other forms of international penalties in terms of nature, objectives, and the resulting consequences. It has gained considerable attention from scholars and international law practitioners², who emphasize the need for regulations to prevent confusion between economic sanctions and other types of penalties.

Subsection One: Definition of International Economic Sanctions

Economic sanctions are a form of non-judicial penalties imposed by the Security Council. It is noteworthy that the United Nations Charter does not use the term "sanctions" but refers to "measures" (Article 39), "acts of prohibition or suppression" (Article 51), and the term "measures" in several articles (Articles 40, 41, 42). Additionally, leading international law scholars use the term "penalty" to describe punitive measures, with the latter term carrying a stronger connotation for the actions and measures outlined in the Charter. Based on this, the concept of penalty can be examined through the following aspects:



Branch One: The Concept of Punishment

The term “punishment” is mentioned several times in the Holy Book, such as in the verses: “On the Day of Judgment, every soul will be recompensed for what it has earned,” and “Recompense for what we have earned is a punishment from God,” as well as “Thus do We recompense the wrong-doers. The term “penalty” implies punishment, but it can also extend to reward, thus encompassing both meanings. This interpretation is similar to the Latin word “sanction,” which is included in both French and English, and refers to the measures taken by several nations to compel a particular state to comply with international law. This procedure is seen as a punishment³, but it can also mean a reward to ensure compliance with the law.

First: The Terminological Concept of Penalty

The terminological meaning of the word “penalty” is derived from its linguistic meaning and acquires a positive connotation, similar to international rewards. The legal scholar Muhammad Talaat Al-Ghoneimy considers it as the privileges that a state receives by joining a certain international organization. Conversely, it can also have a negative meaning, such as punishment, oppression, threats, and retaliation.

Modern legal scholars have established that a penalty arises as a consequence of the violation of a legal rule (punishment), although it is limited in the case of compliance with a legal rule (reward). Contemporary legal thought adopts the negative meaning of penalty as a general principle, while the positive meaning is considered an exception. In the international context, it means coercive repression, even if it contains benefits for the penalized party⁴.

Second: The Legal Meaning of Penalty

Legal scholars disagree on a specific definition of punishment in international law. Dr. Muhammad Sami Abdel Hamid defines it as: “Damage inflicted on a state or international organization when it violates a rule established by the international community.” On another note, Dr. Abdel Muez Al-Ghaffar Nagm defines international punishment as: “Any measure that ensures respect for international law and prevents its violation.”

Professor Bou Nkin considers international sanctions as “the legal consequences of aggression, which are manifested in the application of coercive measures by the state”. Taksin defines them as “a reaction, defined by law, to conduct considered unlawful, enacted by the competent authority”.

The International Court of Justice characterizes sanctions as “measures taken by the Security Council under Articles 39, 41, and 42 of the Charter of the United Nations against states that violate international peace and security.

Branch Two: Definition of Economic Sanctions

The importance of defining international economic sanctions lies in establishing basic controls governing their application and legitimizing all their forms⁵. This creates a clear and solid legal basis to prevent arbitrary application on the one hand, and to avoid exerting pressure on states for political and economic gain on the other. Economic sanctions have various definitions, including

- The cessation of trade relations with an individual, group, or state to achieve an economic, political, or military objective in peacetime or wartime.
- Blanchard Jean Marc defines them as “an instrument of coercion in the foreign policy of a state that violates normal economic relations with another state in order to force the targeted state to change its behavior”⁶.
- Jenthesan describes it as “the actual deprivation or threat of the use of economic relations by one or more states to influence the behavior of another state on non-economic issues or to limit its military capabilities”⁷.



- Mohamed Mustafa Younis defines them as “an economic measure aimed at influencing the will of a state in the exercise of its rights in order to compel it to comply with its international obligations and to ensure that its decisions are in conformity with international law.

In summary, economic sanctions can be defined as “an economic measure taken by an international organization, a state or several states aimed at influencing the will of a non-compliant state with regard to international decisions until it rectifies its wrongful conduct in violation of international law”.

Thus, economic sanctions are seen as an alternative to military actions. It’s important to note that international sanctions, including economic ones, are not a new phenomenon; they have been used historically to weaken an enemy as much as possible. U.S. President Wilson described sanctions as having a binding legal nature, written in the United Nations Charter, after having been for a long time an unwritten, non-binding norm. Nevertheless, the logic of economic sanctions continues to be applied, though it often conflicts with human rights⁸.

Section Two: Objectives of Sanctions

Opinions vary regarding the objectives behind imposing economic sanctions on states. One perspective argues that the true aim is to punish the violating state, relying on examples like the sanctions imposed on Iraq, which forced it to withdraw from Kuwait and compensate for the damages caused by the invasion. This view extends beyond mere punishment to ensuring the state cannot commit similar violations in the future, thus securing neighboring states⁹.

The second view suggests that sanctions aim to compel the state to change its policy and behavior that contravenes international law by destabilizing its stability and economy¹⁰.

The third perspective sees the goal as remedying the consequences resulting from the violation. The final view considers the primary aim of economic sanctions to be punishment, which is primarily a political objective.

Researchers and legal scholars have identified several objectives that economic sanctions aim to achieve, which can vary from overt goals to ambiguous shared objectives¹¹. To accomplish these goals, there are factors that can facilitate success, as well as obstacles that may hinder their achievement.

Branch One: Overt Objectives of International Economic Sanctions

States, or groups of states represented by international organizations, must clearly define the main objectives they seek to achieve by imposing economic sanctions on the targeted state. These objectives should be characterized by transparency and clarity, including:

- Punishing the state that has committed a violation of law, or remedying that violation in accordance with international decisions and laws.
- Influencing states that violate international law to change their policies toward others, whether internally or externally¹².
- Weakening the military power of the targeted state, a preventive objective aimed at preventing it from building or improving its military capabilities in preparation for possible military action, especially if the state has a history of military actions and ambitions¹³.
- To gain the necessary prestige and respect for international law by disciplining the violating state, encouraging it to refrain from similar actions in the future, and serving as a lesson to other states to discourage them from adopting similar policies, thereby strengthening the authority of international law¹⁴.

Branch Two: Ambiguous Objectives of International Economic Sanctions

As noted above, international economic sanctions often serve both clear, overt objectives and hidden, ambiguous ones. The intent behind the imposition of sanctions can vary depending on the type of sanction. In general, these objectives include



- Destabilization of the targeted government:

Economic sanctions are designed to undermine the foundations of the target state, interfering with its policies and plans. This creates an atmosphere of instability aimed at overthrowing the ruling authority and inducing a change in its political ideology. An example is the sanctions imposed by the United States on the Castro government in Cuba, which was allied with the socialist bloc led by the Soviet Union. This economic pressure was aimed at severing all economic, political, and diplomatic ties between Cuba and the Eastern Bloc. Similar economic pressure was applied by the U.S. to Nicaragua in 1985¹⁵.

- Fundamental change in targeted government policies:

Economic sanctions may be designed to bring about a change in a state's policy on issues such as cooperation in combating organized crime¹⁶, preventing nuclear proliferation, or addressing human rights violations. Despite the varying objectives of the international community in imposing economic sanctions-whether overt or ambiguous-they have contributed to heightened tensions and concerns about the use of military force to deter any state that violates international law and the principles enshrined in the Charter of the United Nations.

Branch Three: Success and Failure Factors of International Economic Sanctions

The success of international economic sanctions in achieving their intended goals is often challenging due to various interrelated factors that can hinder their effectiveness. These factors typically revolve around political, economic, geographic, and legal issues. Achieving the expected results of these measures depends on the cooperation of individuals and the international community. Factors that contribute to their success include:

- Global implementation of economic sanctions: The United Nations is a global organization with most countries as members. This global aspect distinguishes it from other international organizations. Importantly, the provisions of its Charter and decisions apply to all member and non-member states, particularly with respect to the maintenance of international peace and security.

- Economic situation of the target state: The economic activity of the target state is critical to the success of sanctions. If the state has a strong and diversified economy that relies primarily on domestic production and self-sufficiency, and is not dependent on surrounding countries - i.e. enjoys economic stability - economic sanctions may be inadequate and fail to achieve the desired objectives. The success of sanctions is closely linked to these economic factors.

- Geographical factors: The geographic location of the state subject to economic sanctions is another critical factor in assessing the success of these measures.

- Legal factors: A harmonious legal system within the international organization and its internal frameworks ensures the absence of legal obstacles and facilitates the prompt implementation of sanctions against states, which contributes to their success and, consequently, to the achievement of international peace and security.

Challenges of Economic Sanctions

Significant obstacles to economic sanctions include:

- Political obstacles: Political factors influence the success or failure of economic sanctions. This can occur within the organization imposing the economic measures or among member states who may be reluctant to participate in sanctions due to a desire to maintain strong diplomatic, economic, and political relations with the offending state. In addition, there may be internal disagreement among members of the organization about the need to impose sanctions, leading to the use of veto power or a preference for peaceful solutions¹⁷.

- Economic Obstacles:^{**} The economic power of the sanctioned state may have a negative impact on other states, causing them to refrain from participating in the enforcement of these punitive measures out of concern for their own economic relations with that state¹⁸.

Historical and contemporary experience suggests that international economic sanctions are effective only when they are applied uniformly by all countries, as in the case of Iraq, or at least by countries that have economic ties with the sanctioned states.

The Iranian model illustrates this point, as Iran's economy is under government control rather than a free market, with estimates suggesting that the government controls about 80% of the country's total economy. Thus, economic sanctions have less of an impact, especially since Iran has strong trade and economic ties with many European countries.

Section Three: Forms of Economic Sanctions

The forms and nature of economic sanctions have diversified and evolved on the international stage from their inception to the present day. Their components, characteristics, and objectives have varied over different periods. Initially, economic sanctions were seen merely as a complement to military actions during the era of military dominance¹⁹. Economic sanctions included peaceful and wartime embargoes, boycotts, and seizures. With the evolution of international relations, economic sanctions have become more organized, balanced, and rational in their application. The reliance on military force for resolving armed conflicts has diminished, leading to the emergence of diplomatic and economic pressures as tools for punishing states that violate international law. Consequently, the procedures and economic measures vary from case to case and can be categorized as follows:

Branch One: International Economic Sanctions by Mechanism

Economic sanctions can be evaluated according to their mechanisms of action, which can be divided into three forms: embargoes, boycotts and blockades, and the blacklisting system.

1. Embargo: This refers to the prohibition of exports to one or more states. It may apply to all exports or to a portion of them, and may extend to imports as a retaliatory measure. International organizations may impose embargoes to punish states that violate international law or to discourage them from engaging in illegal activities, particularly those involving military goods. The embargo may cover all goods needed by the targeted states, not just military equipment.

The embargo is considered one of the most severe forms of economic sanctions because it can destabilize a state's economy and deprive its people of essential goods. This deprivation can lead to public discontent with the government, which can significantly affect the state's policies and potentially lead to actions that violate international law²⁰.

Examples: An example of an embargo in international relations is the air and military embargo imposed by the Security Council on Libya pursuant to Resolution 848 (1992), which was based on Libya's support for terrorist activities and its failure to comply with Security Council Resolution 831 (1992), which constituted a threat to international peace and security²¹.

2. Boycott: This form of economic sanction involves the suspension of economic and trade relations with the penalized state²². It is an official measure that results in the severing of economic ties between two states without a declared state of war²³.

The essence of a boycott is to cut off trade relations with the targeted state and put pressure on it to correct its wrongdoing or change its attitude toward illegal actions. Countries use boycotts to isolate the targeted state from the international community until it complies with international law. Thus, a boycott inherently contains elements of coercion and duress²⁴, and its implementation extends beyond the state itself to include its citizens and companies. Currently, boycotts are often implemented through various international organizations²⁵.

Examples: One notable example is the Kuwaiti boycott of U.S. trade during the 1962 missile crisis, which diverted trade to the Soviet Union and other socialist countries. Another example is the sanctions imposed on South Africa for its apartheid policies, which failed to comply with General Assembly and Security Council resolutions calling for an end to such practices. South Africa faced a military embargo in 1963,

which evolved into a total boycott of its trade and economic activities, gaining significant international support that eventually forced the nation to abandon its racist policies.

Second: Naval blockade

Naval blockade is one of the most important forms of economic sanctions imposed on states that violate international law. It refers to the prevention of ships from entering and leaving the ports and coasts of a particular state, with the aim of cutting off its maritime communications with other countries. This measure is intended to destabilize the economy of the targeted state and is enforced by naval and air forces. Originally considered a wartime action, the development of modern international law has led to the emergence of both peaceful and wartime blockades:²⁶

- Peaceful Blockade: This is used in cases of disputes that have not escalated to war. Its use usually ceases when war is declared, and it is imposed only on the blockading state; it cannot be enforced against ships of third states.

- Wartime Blockade: This involves preventing certain states from acquiring military equipment, weapons or spare parts, either through voluntary compliance by states possessing such equipment or through concrete measures to block access to it.

Example: An example of a wartime blockade is the measures imposed by the Security Council on Iraq under Resolution 661 following its invasion of Kuwait in 1990, aimed at compelling Iraq to comply with international resolutions and to cease threatening neighboring states²⁷.

Most scholars believe that peaceful economic blockades are legitimate measures, although some dispute the legality of any blockade-peaceful or wartime-due to the potential use of armed force involved. The prevailing view among legal experts, however, is that economic blockades are legally permissible when conducted in accordance with the law, as set forth in Article 42 of the United Nations Charter. Moreover, economic blockades are not limited to naval measures; they must also be supported by air blockades, as recognized by the Security Council against Libya under Resolution 848 of 31 March 1992²⁸.

04- Blacklisting System

Under the blacklisting system, individuals or companies with ties to the offending state are placed on specific lists, known as blacklists. As a result, these individuals and companies are treated as if they belong to the violating state, resulting in the imposition of all boycott measures against them. The purpose of this system is to put economic pressure on neutral countries by discouraging them from establishing economic relations with the offending state. It thus serves as a complementary measure to punitive measures such as economic embargoes and boycotts, and extends their impact to citizens who interact with the targeted individuals and institutions²⁹.

Example: A notable example is the Arab boycott of Israeli products, which included a blacklist of companies and individuals trading with Israel.

Branch Two: International Economic Sanctions by Domain

An examination of economic sanctions adopted by United Nations bodies reveals a variety of sanctions tailored to specific situations. Economic sanctions can be classified according to the areas they address:

1. Trade-related sanctions: These sanctions affect all types of commercial activities of the penalized state, including:

- Imposing quotas on imports and exports or applying mandatory licensing systems, as well as resorting to embargoes or boycotts³⁰.
- Freezing or terminating economic relations, including joint ventures, trade agreements, and economic and technical cooperation.
- Temporary or permanent denial of fishing rights in territorial waters.

- Placing individuals or companies that trade with the targeted state on special blacklists³¹.

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For example, trade sanctions on diamonds from Liberia and Sierra Leone sought to prohibit the illegal exploitation of rough diamonds because the funds generated by their sale were a major source of financing for armed groups and weapons proliferation in Africa, thereby threatening international peace and security. Another example of trade-related sanctions is the action taken by the United States against its agricultural imports from the European Common Market due to losses incurred after the accession of Spain and Portugal to the European Union.

2. Financial sanctions: These sanctions are often considered more effective than trade sanctions. They involve the freezing of the assets of the targeted states, directly affecting them by seizing their foreign funds. This forces quick compliance with the conditions set by the sanctioning states.

A notable example is Pakistan's freezing of 146 bank accounts of Afghan ministers in foreign banks in 2001.

Financial sanctions affect the population because the freezing of assets aims to limit the overall growth rate of the targeted state, which can significantly weaken its national economy and reduce the living standards of its citizens.

In addition, the withdrawal of investment - the cessation of investment in the targeted state and the withdrawal of foreign capital - prevents the targeted state from benefiting from foreign funds to improve its economy. This withdrawal has a significant impact on hindering the normal functioning of the economy and increasing unemployment rates.

Financial sanctions also include the reduction of financial assistance, which affects the targeted state, especially if it is dependent on such assistance. This type of sanction affects not only the leaders of the state who benefit from this aid, but also the general population, as the cessation or reduction of aid can lead to economic stagnation and ultimately lower the standard of living of the people.



3. Transportation and communication sanctions

Transportation and communication sanctions consist of a range of measures aimed at restricting, freezing or suspending the movement of various modes of transportation, including ships, aircraft, land routes and railways of the targeted State. These sanctions may also include the restriction or interruption of postal communications.

These sanctions may be used independently or in conjunction with commercial and financial sanctions to increase their effectiveness and ensure that their intended goals are achieved. The most commonly used sanctions in this category are those related to aviation, which may target the activities of the state's national airline. For example, sanctions were imposed against Afghan Airlines (Ariana), focusing on the movement of the targeted state's aviation.

A notable example is Libya, where the Security Council not only imposed commercial and financial sanctions, but also targeted oil production and aviation. This included preventing the import or export of spare parts or oil refining equipment and prohibiting the maintenance of Libyan aircraft and their components.

Chapter Two: The Legal Basis for the Security Council's Authority to Impose International Sanctions

The Security Council is one of the principal organs of the United Nations, serving as the organization's executive body and the central mechanism for collective security. It consists of fifteen members, five permanent members and ten elected by the General Assembly by a two-thirds majority for two-year terms. The Security Council is thus a limited representative body that exercises the primary responsibility of the United Nations: the maintenance of international peace and security³⁵.

The Security Council has broad discretion in assessing the actions of the offending or targeted state to determine whether they fall under one of the scenarios outlined in Article 39 of the UN Charter. If such a situation is determined, the Council may impose the measures set forth in Article 41 of the Charter.

Section One: Basis of the Security Council's Powers in Maintaining International Peace and Security

As a political organ of the UN, the Security Council is tasked with the peaceful resolution of international disputes with a political nature or the adoption of measures or sanctions that may include the use of force to maintain international peace and security. Chapter VII of the UN Charter outlines the legal texts related to the powers and competencies of the Security Council when any dispute threatens international peace and security. These texts empower the Security Council to take various punitive measures, including the potential use of force.

Among these provisions is Article 24, paragraph 1, which assigns the Council the essential function of maintaining international peace and security, acting on behalf of the UN member states. Chapter VI of the Charter lays out the principles the Council should follow in resolving disputes peacefully, while Chapter VII addresses the actions the Council may take in the event of a threat to peace, a breach of peace, or acts of aggression.

Branch One: The Security Council's Authority to Determine Violations Under Article 39 of the Charter

Article 39 of the Charter is the basic provision by which the Security Council determines whether a threat to the peace, a breach of the peace, or an act of aggression has occurred. Under this Article, the Security Council may make recommendations or decide on measures to be taken in accordance with Articles 41 and 42 to maintain or restore international peace and security.

In discussing the conditions for the implementation of this article, it should be noted that it empowers the Security Council to take military measures in its name, which are attributed to it alone. In order to carry out this task effectively, Article 25 of the Charter requires UN members to accept and implement the decisions of the Security Council in accordance with the Charter.

The economic sanctions set forth in Article 41 of the Charter may be imposed by the Security Council in cases of threats to or breaches of international peace, either through recommendations or by requiring Member States to implement them.

First case: threats to peace

The purpose of including the concept of “threat to the peace” in Article 39 of the Charter is to broaden the use of the measures outlined in Article 41 by the Security Council. This change encompasses various situations that are considered threats to the peace, such as a declaration of intent by a state to intervene in the affairs of another state or to use force against it.

It is clear that the threat to peace does not necessarily require actual violent action; a situation may be considered a threat to peace if armed clashes occur within the territory of a state that may harm the interests of another state. In addition, an influx of refugees fleeing an armed conflict into neighboring states can also constitute a threat to regional peace³⁶.

Second: Breach of International Peace

The term “breach of peace” refers to acts of violence by one state against another or armed conflict within a state’s territory, provided that such actions warrant external intervention that threatens the interests of other states. This becomes clearer if the conflicting parties are recognized as combatants. If a group of insurgents directs violence against a state, using another state as a base for their military operations, these actions certainly represent a breach of global peace.

The Security Council has defined what constitutes a breach of peace in Resolution 54 of 1948 regarding the Palestinian issue, broadening the concept to include non-compliance with ceasefire resolutions as a form of breach. Consequently, the Security Council has extensive authority to assess whether certain actions constitute a breach of peace, even if they do not necessarily violate the provisions of the UN Charter or international law.

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The Security Council has broad discretion in assessing the actions of the offending or targeted state to determine whether they fall under one of the scenarios outlined in Article 39 of the UN Charter. If such a situation is determined, the Council may impose the measures set forth in Article 41 of the Charter.

Third: Acts of Aggression

Defining aggression poses significant challenges for the Security Council in exercising its powers under Chapter VII of the UN Charter. Numerous attempts to establish a clear definition of acts of aggression have been made, yet the issue remains shrouded in ambiguity. Since 1950, the General Assembly has sought to clarify this matter, culminating in the adoption of Resolution 3314 on February 14, 1974, which defines aggression as “the use of armed force by a state against the sovereignty, territorial integrity, or political independence of another state, or any other manner inconsistent with the provisions of the Charter.”³⁷

Branch Two: Intensification of the Security Council’s Enforcement Actions

The methods by which the Security Council expresses the existence of threats to peace and security, breaches of peace, or acts of aggression are varied and lead to the application of its powers as outlined in Article 39 of the Charter. The Council adapts the facts according to the provisions of the Charter and the procedures taken to clarify any ambiguities within the context of the decisions issued, without violating the text of the Charter.



To facilitate this adaptation process, the Security Council relies on subsidiary committees established for studying disputes and monitoring developments. These committees assess the situation and the disputes brought to the Council's attention to issue relevant decisions. They provide the Council with information and data that help in classifying the case as a threat to peace, a breach of peace, or an act of aggression.

The methods employed by the Security Council to express the situations warranting the application of Chapter VII, as stated in Article 39, vary. In some resolutions, the Council explicitly references Article 39 while including its language. For instance, Resolution 232 of 1966 concerning the situation in Southern Russia was deemed a threat to international peace and security. Similarly, Resolution 660, addressing Iraq's invasion of Kuwait, was identified as a breach of peace and security.

In other cases, the Council may imply the language of Article 39 in its assessment without citing it directly, as in Resolution 418 of 1977 on South Africa. In various other resolutions, the Council has referred to Chapter VII of the Charter as the basis for its authority without specifying Article 39 or using its explicit language, as in Resolution 314 of 1972.

Ultimately, it is difficult to identify a consistent approach in the policy of the Security Council, largely due to political considerations and the influence of the great powers in guiding its actions.

Branch Three: The Security Council's Authority to Impose Sanctions

The countries that helped establish the Charter of the United Nations sought to create an executive body capable of achieving the goals of the organization. Consequently, they created the Security Council and endowed it with specific punitive powers to facilitate its functions without complexity or disruption. The legal basis for these powers is detailed in Article 41 of the Charter:

> "The Security Council shall 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 United Nations to apply such measures. These measures may include the total or partial interruption of economic relations and of rail, sea, air, postal, telegraphic and other means of communication, and the severance of diplomatic relations".

If the Security Council determines that these measures are not achieving their intended objectives, it may resort to military action using available means - land, air and sea - to maintain or restore international peace and security. This includes the use of various military strategies such as demonstrations of force and blockades.

Article 41 allows the Security Council to decide on measures that do not require military force, and it also authorizes member states to implement these measures, including the cessation of economic and transport relations.

Decisions of the Security Council under this article are binding on member states, and no state can avoid their implementation by invoking treaties with the targeted state. Article 103 of the Charter states:

> "In the event of any conflict between the obligations of Members of the United Nations under this Charter and their obligations under any other international agreement, their obligations under the Charter shall prevail."

In addition, Article 29 of the Charter allows the Security Council to establish subsidiary bodies or committees to oversee the implementation of non-military measures.

While there is a hierarchy in Articles 41 and 42, this does not mean that the Council must first adopt non-military measures before resorting to military ones; the Council has the discretion to choose the measures it deems appropriate to deal with a given situation³⁸. Ultimately, it is advisable for the Security Council to use economic sanctions first to de-escalate tensions, while ensuring that any military action is strictly limited to the objectives of maintaining international peace and security.



Second Requirement: Constraints on the Security Council's Authority to Impose Economic Sanctions

The Security Council is one of the most important bodies of the United Nations, and its significance is tied to its composition and the nature of its powers under the UN Charter. Although it possesses extensive authority under Chapter VII of the Charter to assess situations as specified in Article 39, there are constraints on its power to impose economic sanctions to protect the international order. These constraints apply from temporary measures to military actions that involve the use of armed force to maintain international peace and security.

Branch One: Legal Constraints

According to Article 24 of the Charter, when the Security Council imposes measures under Chapters VI, VII, VIII, or XII, it must act in accordance with the purposes and principles of the United Nations. Article 24 states:

> “The Security Council shall carry out its duties in accordance with the purposes and principles of the United Nations to enable it to perform its responsibilities laid down in Chapters VI, VII, VIII, and XII.”

Consequently, any decision by the Security Council to impose economic sanctions must be consistent with these principles and objectives, respecting the principles of necessity and proportionality in relation to the gravity of the violation and the threat to international peace and security, in order to maintain the legitimacy of its actions.

In addition, the first paragraph of Article 1 outlines one of the principal purposes of the United Nations: the maintenance of international peace and security. The third paragraph emphasizes the importance of respecting human rights and fundamental freedoms for all people without discrimination.

This constraint is particularly important because economic sanctions often impose severe hardship on civilian populations, potentially violating this principle. When sanctions result in loss of life, this constitutes a violation of the right to life, which includes protection from malnutrition and infectious diseases.

All of these principles outlined in Article 1 provide a framework for the Security Council to follow when imposing economic sanctions.

Article 55 reinforces the constraints of Article 1 by emphasizing the UN's commitment to raising living standards, promoting social progress and solving international social and economic problems while respecting human rights. Therefore, a sanctions regime that leads to a decline in living standards or undermines human rights is inconsistent with Article 55 and consequently loses its legitimacy.

Another legal constraint is the requirement to respect state sovereignty. Historically, sovereignty was absolute, unbounded and unrestricted, making war the norm in international relations. However, after the development of the international community and the devastation caused by two world wars, the idea emerged that the vital interests of the international community must be protected. Thus, the member states agreed to cede part of their sovereignty to the United Nations and its principles.

It is noteworthy that since the Gulf crisis in the early 1990s, many decisions were made at the level of the United Nations and Western countries that violated the principle of state sovereignty by intervening in internal affairs, such as stirring up issues between Shiites and Kurds in Iraq and Kuwait, followed by additional economic sanctions that lasted for a decade.

Branch Two: Political Constraints

Due to the lack of effective judicial control over the actions of the Security Council, in addition to the legal constraints imposed on economic sanctions, the Council is subject to political control. This allows the General Assembly to exercise an impartial oversight role. The General Assembly has the power to appoint non-permanent members of the Council, who constitute one-third of its membership, to approve and ratify the budget, and to discuss all issues related to the maintenance of international peace and security. The Council is also required to report to the General Assembly on its decisions and actions to promote peace and security.



The veto is a major constraint on the Security Council's ability to adopt resolutions imposing international sanctions against a state. This power is exercised by the five permanent members of the Council.

In practical international relations, the United States has frequently used the Security Council to serve its own interests around the world, often using its veto power to block any resolution that does not align with its objectives.

Branch Three: Humanitarian Constraints

Humanitarian constraints refer to the limits that must be respected during peacetime or wartime by the authority imposing sanctions, which is the Security Council, as well as by all member states. This is in accordance with commitments outlined in the UN Charter to promote respect for human rights, as well as obligations each member state, particularly the permanent members of the Security Council, has undertaken under international covenants such as the International Covenant on Economic, Social, and Cultural Rights, the Universal Declaration of Human Rights, and other treaties.

These obligations include preventing the starvation of civilian populations, respecting the right to humanitarian assistance, and allowing relief supplies in cases of naval blockades and land occupations.

Third Requirement: Key Actual Applications of Economic Sanctions Imposed by the Security Council

The world has witnessed economic sanctions since ancient times, used as a powerful tool in various cases. The Security Council has applied these sanctions in numerous instances, with varying degrees of severity, impact, reasons, and backgrounds. During the first four decades following the establishment of the United Nations, the Security Council issued decisions regarding economic sanctions only in two cases: Rhodesia in 1966 and South Africa in 1977. However, following the end of the Cold War, the Council increasingly resorted to collective economic sanctions, imposing them on Iraq, former Yugoslavia, Haiti, Somalia, Libya, Liberia, Angola, Rwanda, and Sudan³⁹.

Branch One: The Case of Iraq

When Iraq invaded Kuwait in 1990, completely occupying its territory, the Kuwaiti government sought assistance from the international community, requesting the Security Council to take action to restore security. The Council intervened to exercise its authority under Chapter VII of the Charter to address violations of peace and acts of aggression, issuing several resolutions including:

- Resolution 660: This resolution declared a violation of international peace and security and demanded that Iraq withdraw its forces from Kuwait and engage in negotiations to resolve their disputes, while supporting all efforts to achieve this goal. When Iraq failed to comply, the Security Council imposed non-military measures against Iraq and occupied Kuwait.
- Resolution 661: Utilizing the authority granted by Article 41 of the Charter, this resolution imposed a comprehensive economic and trade embargo on Iraq and established a committee of all Council members to oversee its implementation in cooperation with the Secretary-General. Subsequent resolutions strengthened the economic sanctions and ensured compliance with international resolutions.
- Resolutions 665 and 670: Resolution 665 called upon Member States to cooperate with the Government of Kuwait by providing naval forces to ensure the enforcement of the embargo imposed by Resolution 661. Resolution 670, passed the same year, imposed a no-fly zone, prohibiting countries from allowing flights in and out of Iraq unless authorized by the Security Council⁴⁰.

These measures culminated in the oil-for-food program, which was designed to allow Iraq to manage its natural resources while providing essential food and medical supplies to its people, and to address the humanitarian crisis caused by the comprehensive economic sanctions that lasted for 13 years, of which 6.5 years under the oil-for-food program began in December 1996.

The effectiveness of the international economic sanctions imposed on Iraq can be attributed to several factors:



- International commitment: The commitment of the international community to enforce these sanctions kept Iraq under the scrutiny of the United Nations through the actions of the Security Council.

-Economic collapse: Iraq's economy suffered rapidly due to its total dependence on oil exports, with sanctions halting 97% of its exports.

- Food Insecurity: Iraq faced severe food insecurity due to its heavy reliance on imports for food and health needs, leading to a 90% drop in imports⁴¹.

-Advanced Surveillance: Advanced surveillance technologies helped monitor Iraqi airspace and ports, contributing significantly to the effectiveness of the economic blockade.

The international economic sanctions against Iraq are considered to be among the most effective and were widely supported by many countries and international organizations due to Iraq's clear violation of international law and the principles of the UN Charter during its invasion of Kuwait. This situation posed a threat to international peace and security and disrupted economic relations for many countries, given the strategic importance of Iraq and Kuwait and their oil reserves.

In response to the humanitarian crises caused by comprehensive sanctions in various countries, the United States and the United Kingdom proposed a new approach known as "smart sanctions".

Branch Two: The Case of Iran as a Model for Smart Sanctions Since the mid-1990s, following the first revelations about Iran's nuclear program, Western countries began to take measures aimed at depriving the program of funds and technology. The Security Council imposed a series of sanctions on Iran in 2006, 2007, and 2008, while the United States and the European Union implemented additional sanctions⁴².

Resolution 1929, adopted in June 2010, included measures targeting new banks in Iran suspected of being linked to the nuclear program or missile development. It warned against transactions with all Iranian banks, including the Central Bank of Iran. The resolution also expanded the arms embargo on Iran to include military equipment such as tanks and armored vehicles. It also authorized inspections of vessels entering or leaving Iran in international waters or within the territorial waters of UN member states.

These sanctions primarily targeted the elite sectors of Iranian society, with the aim of hitting their interests and forcing them to pressure the political regime. This approach distinguishes smart sanctions from classical economic sanctions, as they do not directly affect the general population. By avoiding widespread harm to civilians, smart sanctions maintain a degree of legitimacy and do not foster resentment toward the international community, which could occur if traditional sanctions were perceived as unjust⁴³.

In addition to financial measures, smart sanctions included restrictions on the landing of Iranian civilian aircraft at airports around the world and restrictions on Iran's maritime shipping lines. These measures extended to Iranian sports teams, prohibiting their participation in various international competitions, thereby influencing public opinion within Iran and among its elite.

Following the approval of the nuclear agreement between Iran and the P5+1 group, sanctions began to be lifted. This agreement allowed Iran to export and import arms in exchange for halting its nuclear weapons development and allowing inspections of its nuclear facilities. It built on the framework established in the Lausanne agreement and culminated in the signing of the deal in Vienna on July 14, 2015⁴⁴.

The shift to smart sanctions reflects a recognition of the negative impact of comprehensive economic sanctions on ordinary citizens and innocent populations. The adoption of smart sanctions seeks to mitigate the humanitarian impact while still exerting pressure on targeted political entities.

CONCLUSION:

This article focused on international sanctions, addressing the definition of economic measures, their objectives, forms, and the legal basis for the Security Council's authority to impose them. It examined the basis of the Security Council's powers under Chapter VII of the United Nations Charter, how it assesses situations that justify sanctions, and highlighted two significant cases: Iraq and Iran.

From the analysis presented in this study, several key findings can be summarized as follows:

- Targeting violations: International sanctions are designed to address wrongful conduct rather than to target the state or its citizens. The primary objective is to enforce Security Council decisions related to international peace and security and to compel violators to comply with their obligations.
- Legitimacy: The legitimacy of sanctions is not merely based on a Security Council resolution; it requires genuine efforts to justify such measures, as set out in Article 39 of the Charter, and the fulfillment of procedural and substantive conditions.
- Abuse of authority: There is evidence that the Security Council has abused its powers, in part due to the dominance of the United States in the Council and its influence on decisions following the 1990 Gulf War, which has led to violations of international law, particularly in the case of Iran.
- Violation of sovereignty: The measures taken by the Security Council against Iraq were a clear violation of its sovereignty and a threat to its security, as seen in the oil-for-food program.
- Responsibility of the United Nations: The United Nations, through its principal organ, the Security Council, bears responsibility for the destructive impact on the Iraqi economy resulting from the continued imposition of economic sanctions.

These findings underscore the need for a balance between the imposition of economic sanctions and the consideration of humanitarian and political dimensions in order to achieve desired objectives without harming ordinary citizens.

Recommendations In order for economic sanctions to be an effective tool that achieves its intended goals in the face of new global transformations, the Organization must address the negative impact of these sanctions on peoples and states. Key recommendations include:

- Adherence to legal frameworks: International sanctions should be imposed in accordance with the Charter of the United Nations, international law and principles of justice. The implementation of such sanctions must be consistent with the provisions of the Security Council resolution imposing them, and the Council should act in accordance with Article 24(2) of the Charter.
- Focus on legal considerations: Political considerations should be excluded from the imposition of economic sanctions. Instead, the focus must be on legal criteria and international standards to ensure proper regulation of violations.
- Avoid Severe Deterioration: Measures that could lead to a severe deterioration of conditions for the civilian population and the collapse of essential structures of the sanctioned state should not be taken.
- Human Rights Considerations: There should be a strong emphasis on human rights with the aim of alleviating the suffering of individuals and communities as a result of the implementation of economic sanctions. This requires reforming the mechanisms for applying sanctions to ensure that they are based on legal standards rather than political desires and interests.

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Footnotes:

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- ¹-See Amich Rachid, "Economic Sanctions as a Deterrent at the International Level," Master's Thesis, University of Oum El Bouaghi, Faculty of Law, 2016-2017, p. 08.
 - ²- Iyad Younes Mohammed Al-Aqli, p. 29.
 - ³ See Tanbita Adel, "International Economic Sanctions Between Legitimacy and Humanitarian Considerations," Master's Thesis, Faculty of Law, Nefra University, 2011-2012, p. 08.
 - ⁴- Iyad Younes, previous reference, p. 29.
 - ⁵- See Abu Kabir, p. 13-15.
 - ⁶- See Amich Rachid, previous reference, p. 10.
 - ⁷- Micah Kaplan, p. 69.
 - ⁸- Alimpstashai, p. 01 (pdf).
 - ⁹- See Issa Kazem Dayen, p. 63.
 - ¹⁰- Ikhlas Obeid, previous reference, p. 10.
 - ¹¹- See Ismail Da'is, "Economic Sanctions," *Diplomatic Journal*, Issue 10, December 1988, p. 61.
 - ¹²- See Jeff Simuter, previous reference, p. 295.
 - ¹³- Khawla Mohyeddin Youssef, "International Economic Sanctions Imposed by the Security Council and Their Impact on Human Rights," Al-Halabi Publications, 1st Edition, 2013.
 - ¹⁴- Fatina Abdel-Aal Ahmed, previous reference, p. 31.
 - ¹⁵- Khalaf Bou Bakr, previous reference, p. 120-121.
 - ¹⁶- Amich Rachid, previous reference, p. 19.
 - ¹⁷- Fatina Abdel-Aal Ahmed, previous reference, p. 202-205.
 - ¹⁸- Fatina Abdel-Aal Ahmed, previous reference, p. 205.
 - ¹⁹- Fatina Abdel-Aal Ahmed, previous reference, p. 35.
 - ²⁰- Fatina Abdel-Aal Ahmed, previous reference, p. 36.
 - ²¹- Fatina Abdel-Aal Ahmed, previous reference, p. 37.

- 22- Ikhlas Ibn Obeid, previous reference, p. 13.
- 23- Khalaf Abu Bakr, previous reference, p. 44.
- 24- Abu Amila Saif Al-Nasr, previous reference, p. 34.
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- 28- Amich Rachid, previous reference, p. 29.
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- 38- Nayef Hamid Al-Alimat, previous reference, p. 154.
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