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Economic Sanctions: How to Make International Trade a Legal Right Instead of a Privilege

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https://doi.org/10.21684/2412-2343-2024-11-4-34-56

Received: November 10, 2023
Reviewed: January 5, 2024
Accepted: March 2, 2024

Abstract. The wave of new economic trade sanctions in the world needs the comprehension of the grounds and potential consequences of this phenomenon. The author summarizes the annual reports of the UN Special Rapporteur on the negative impact of the unilateral coercive measurers for 2015–2022. Also, the paper explains why the "broken windows theory" is relevant to unilateral economic sanctions imposed by developed countries against developing countries. Analyzing the results of voting in the UN for non-specific country sanction issue resolutions, the author proves that the developed countries and European developing countries except Russia usually support economic sanctions as a policy tool which is unlikely for non-European developing countries. The increase in multi-regionalism facilitated by imposed or potential economic sanctions is a factor which could lead to the collapse of the unilateral system of international trade regulations under the WTO scope. Finally, the paper offers to unblock the Doha Round of WTO negotiations through a switch from multilateral agreement ideology to plurilateral agreement ideology, starting from signing an in-depth and comprehensive anti-economic sanctions agreement initiated by the BRICS member states.

Keywords: BRICS; economic sanctions; unilateral coercive measures; WTO; international trade; agreement; multilateralism.

To cite: Molodyko, K. (2024). Economic Sanctions: How to Make International Trade a Legal Right Instead of a Privilege. *BRICS Law Journal, 11*(4), 34–56.

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Introduction

In the mid-1990s as part of the Uruguay Round negotiations under the General Agreement on Tariffs and Trade (GATT) there was strong optimism associated with the widespread belief that it would set new universal and fair-trade rules. Broad comprehensive trade sanctions and trade wars would disappear and international trade goods and services would be separated from politics. That is, with the exception of trade in goods and services, which is clearly of military and dual-use items, and several other clearly defined specific cases (the use of prison labor for production, child labor, etc.), merchants would be able to choose their trading partners freely, regardless of the political opinion of purchasing countries. International negotiations on new rules of international trade would become transparent as well.

Indeed, due to the results of the Uruguay Round negotiations the WTO was created, as well as a lower level of customs duties on goods, which was presented as a great success of global development. There was moderate liberalization of certain rules of international trade in services as well. But was not the positive impact of these events for international trade and development overestimated? What is the point of the lower duties on goods (and some technically more liberal rules for trade in services), when the purchase is virtually impossible due to economic sanctions imposed by politicians?

Within the framework of the WTO Uruguay Round, the existing GATT rules, dating from 1947, about the possibility of the establishment of any restriction on international trade based on the "security" and "emergency in international relations" were left unchanged. Moreover, these rules adopted in 1947, with the creation of the WTO in 1995, were extended to trade in services. Can we say that if the world continues to trade

on the basis of the legal standards of 1947, the real international trade rules are based on principles of the era of a divided world and the Cold War? The fact is that, nothing has changed since 1947, and we must continue to do business in the spirit of 1940s standards. Alternatively, if the political standards of the 1940s are redundant, why is this not legally fixed by adjusting the legal documents composed that time? My first argument is that almost all world developing countries are likely to agree to refuse using sanctions as a tool of international policy. The active use of economic sanctions as a method of international policy is based on the will of a coalition of developed countries. De facto, economic sanctions is a tool used by developed countries in order to brake the economic growth of developing countries. Their aim is to prevent the latter from reducing its backlog so as to catch up with more developed countries. Thus, it reduces the speed of the overall progress of the global economy. At the same time, the economic development of politically loyal foreign regimes is promoted, even if they are odious, which is essentially a monopoly on the development, and the elimination of the interstate fair competition in the development.

My second argument is that neither national nor international courts provide a real defense against unilateral economic sanctions. Unilateral economic sanctions imposed by developed countries against developing countries could provoke the collapse of unified world trade and spilt into several trade megablocks. It's senseless for most developing countries to adhere to WTO rules, because the retaliation system in WTO law is designed to protect developed countries in mutual trade with each other plus with several of their major trade partners from the list of developing countries. In the system of megablock split, even though the WTO formally remains, WTO law will regulate only minor secondary trade issues, but the primary regulation of international trade will go into mega-block law. However, the real power of the WTO as a much more unified system of international trade rules could be kept through a switch to plurilateral agreement development ideology. The signatories of the latter will refuse to use in mutual trade out with direct war or the scope of proper United Nations Security Council Resolutions the GATT Article XXI(b)(iii), (c) and GATS Article XIV bis(b)(iii), (c) respectively provisions related to emergency in international relation exceptions, and maintenance of international peace and security exceptions.

1. What Is Meant by "Economic Sanctions" and "Unilateral Coercive Measures"?

There is neither official determination nor academic consensus related to the differentiation of such terms as "economic sanctions" and "coercive measures" in trade. In practice, they often are used as synonyms.

Hufbauer et al. define economic sanctions to mean

> the deliberate, government-inspired withdrawal, or threat of withdrawal, of customary trade of financial relations. "Customary" does not mean

> "contractual"; it simply means levels of trade and financial activity that would probably have occurred in the absence of sanctions.[1]

Carter offers a definition of the term "economic sanctions" to mean "coercive economic measures taken against one or more countries to force a change in policies, or at least to demonstrate a country's opinion about the other's policies." The terms "economic boycott" and "embargo" are often used interchangeably with "economic sanctions."[2] Malloy uses the term "economic sanction" to refer to any country – specific economic or financial prohibition imposed upon a target country or its nationals with the intended effect of creating dysfunction in commercial and financial transactions with respect to the specified target, in the service of specified foreign policy purposes. The term "sanction" in the present context therefore includes a range of trade and financial measures that may be imposed in varying combinations and administered by a number of agencies.[3] Taylor says that the term "sanctions" is one of the more confused to have entered the discourse of international politics. For the purposes of his study he defines sanctions as "an economic instrument which is employed by one or more international actors against another, ostensibly with a view to influencing that entities foreign and/or security behavior."[4] Taylor also classified sanctions' scholars into three academic schools:

a) "the sanctions don't work" school (Johan Galtung, Margaret Doxey, Donald L. Losman, Robert A. Rape, Richard N. Haass, Reed M. Wood);

b) "the sanctions as symbols" school with a separate international symbolism and domestic symbolism issues (Hedley Bull);

c) "the sanctions can work" school (David Mitrany, T. Clifton Morgan, Valerie L. Schwebach, Hufbauer–Schott–Elliott–Oegg).[5]

We define economic sanctions as

> full of partial restrictions of free movement of goods, freedom of movement for workers, right of establishment and freedom to provide services and free movement of capital if their lift is caused by fulfilling some political demands by the government of the target country.

Several recent United Nations documents help us to better understand the terminological aspects of economic sanctions and similar terms.

The term "unilateral coercive measures" has been used broadly to include measures such as "unilateral economic sanctions," "unilateral economic measures"

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1 Hufbauer, G., Schott, J., Elliott, K., & Oegg, B. (2009). *Economic Sanctions Reconsidered* (3rd ed., p. 3). Peterson Institute for International Economics.

2 Carter, B. (1998). *International Economic Sanctions: Improving the Haphazard U.S. Legal Regime* (pp. 4–5). Cambridge University Press.

3 Malloy, M. (2000). The Many Faces of Economic Sanctions: Efficacy and Morality. *Global Dialogue, 2*(3), 1–10.

4 Taylor, B. (2010). *Sanctions as a Grand Strategy* (pp. 10–12). Routledge.

5 *Id*. pp. 18–23.

and "coercive economic measures" in various studies, as well as in United Nations documents and resolutions. To date, the term "unilateral coercive measures" does not seem to have a commonly agreed-upon definition.[6] The most commonly-used definition of the term is "the use of economic measures taken by one State to compel a change of policy of another State."[7] Some studies, however, tend to hold the view that the term "unilateral" may be used in a broader sense to include states, groups of states and "autonomous" regional organizations, unless such measures are authorized under Chapter VII of the Charter of the United Nations. For example, Portela stated that "… one can distinguish the unilateral sanctions practice of individual states and organizations – such as the EU, the US, Canada or Japan – from the mandatory sanctions of the Security Council."[8] The working definition of the term "unilateral coercive measures" preferred for the purposes of the study by the Human Rights Council Advisory Committee was

> the use of economic, trade or other measures taken by a State, group of States or international organizations acting autonomously to compel a change of policy of another State or to pressure individuals, groups or entities in targeted states to influence a course of action without the authorization of the Security Council.[9]

However, it is important to notice that to offer personal definitions of the term "economic sanctions," "coercive measures," etc. is not conventional in academic research. Some scholars prefer to avoid defining such terms formally, and concentrate on analyzing targets and aims. Books written by Eyler[10] and Selden[11] are good examples of such approach.

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6 UN General Assembly Human Rights Council. (2013, June 24). *Proceedings of the Workshop on the Various Aspects Relating to the Impact of the Application of Unilateral Coercive Measures on the Enjoyment of Human Rights by the Affected Populations in the States Targeted* (A/HRC/24/20). UN Official Documents. https://documents.un.org/doc/undoc/gen/g13/149/93/pdf/g1314993.pdf; see also the presentation made by Antonios Tzanakopoulos. Tzanakopoulos, A. (2014). *Workshop on the Impact of the Application of Unilateral Coercive Measures on the Enjoyment of Human Rights by the Affected Populations, in Particular Their Socioeconomic Impact on Women and Children, in the States Targeted*. Office of the High Commissioner for Human Rights. http://www.ohchr.org/EN/NewsEvents/Seminars/Pages/Workshop23May2014.aspx

7 Lowenfeld, A. F. (2002). *International Economic Law* (p. 698). Oxford University Press.

8 Portela, C. (2014, March). *The EU's Use of 'Targeted' Sanctions: Evaluating Effectiveness* (CEPS Working Document No. 391). CEPS. https://www.ceps.eu/system/files/WD391%20Portela%20EU%20Targeted%20Sanctions.pdf

9 UN General Assembly Human Rights Council. (2015, February 10). *Research-Based Progress Report of the Human Rights Council Advisory Committee Containing Recommendations on Mechanisms to Assess the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights and to Promote Accountability* (A/HRC/28/74, paras. 7–9). UN Official Documents. https://documents.un.org/doc/undoc/gen/g15/022/08/pdf/g1502208.pdf

10 Eyler, R. (2007). *Economic Sanctions: International Policy and Political Economy at Work*. Palgrave Macmillan.

11 Selden, Z. (1999). *Economic Sanctions as Instruments of American Foreign Policy*. Praeger Publishers.

Counsellor in the WTO Maarten Smeets, speaking of the main purpose of sanctions, expressed an opinion that trade sanctions result from political decisions to act against another country. They are meant to isolate a country economically, thus providing one way of expressing disagreement with a country's policies. The objectives of sanctions vary for each individual case, but generally are related to achieving changes in the internal or foreign policy of the target country. Economic sanctions should be seen as an instrument to exert pressure to bring about such policy changes. The objectives of sanctions can range from the "soft," i.e., simply expressing dissatisfaction with a country's behaviour, to the "hard," i.e., securing a fundamental change in such behaviour. Trade sanctions are thus an economic instrument for achieving political objectives. The more ambitious the objectives, the larger the sanctions package should be. Nevertheless, experience shows that even when full-scale sanctions are applied and a country seems to be totally isolated, there is still no guarantee of success. Although sanctions are politically popular, the empirical evidence suggests that the number of successful sanctions campaigns is limited.[12]

Economic sanctions, which are in practice now, in most cases, are a widespread type of unilateral coercive measurers. I am convinced that the most complete and detailed analysis of these measures is carried out by the Special Rapporteurs on the negative impact of the unilateral coercive measurers under the Office of the United Nations High Commissioner for Human Rights (OHCHR) in their annual reports. In the academic literature one can often find references to their reports for individual years, but we found comprehensive summaries of these reports for several years, despite the fact that these reports had a different focus in different years. I'm convinced that the significance of these reports in political and legal science is underestimated. Therefore, I decided to fill this gap, that is, to summarize at least the most important key provisions in my opinion of these annual reports for 2015–2024.

According to Idriss Jazairy, who served as the Special Rapporteur from May 2015 to March 2020, a variety of the expressions are being used to refer to unilateral coercive measures. Some refer to them as "sanctions," others as "restrictive measures" and others still use them interchangeably or jointly as, for example, "restrictive measures (sanctions)." The term "restrictive measure" does not carry the same ethical overtones of punishment as "sanctions." However, this term eschews the mention of "unilateral," which itself raises the issue of legitimacy of such measures since what is unilateral can, in given circumstances, lack legitimacy. The term "unilateral coercive measures," though more cumbersome, has the advantage of not prejudging any of the aforementioned, rather controversial, issues.[13]

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[12] Smeets, M. (2000, Summer). Conflicting Goals: Economic Sanctions and the WTO. *Global Policy Dialogue, 2*(3), 119–128.

[13] UN General Assembly Human Rights Council. (2015, August 10). *Report of the Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights, Idriss Jazairy*

Another possible terminological economic sanctions-related confusion refers to distinction between the terms "retorsion," "retaliation" and "reprisals."

Retorsion refers one country to applying pressure on a second country, which may or may not be in breach of its international obligations, without the source country itself suspending any international obligation owed to the target country. Retaliation refers to the *lex talionis*, which demands that a wrongdoer be inflicted with the same injury as that which he has caused to another. It may thus be used to describe a suspension by a source country, by way of a unilateral coercive measure, of its international commitments selectively against the target country to an extent that is proportionate with the wrongful act of the latter, thus staying within the alleged bounds of legitimacy. Finally, the concept of reprisal, traditionally used to cover otherwise unlawful action, including forcible action, taken by way of self-help in response to a breach, is now mostly used to refer to action taken in time of international armed conflict. In that context, reprisals have been defined as "coercive measures which would normally be contrary to international law but which are taken in retaliation by one party to a conflict in order to stop the adversary from violating international law."[14]

Unilateral coercive measures may be invoked for political motives or for reasons pertaining to human rights. It is recognized that they are not legitimate if they pursue an economic objective of the source country or group of countries. International law will only consider such measures as legitimate if: (a) they are a response to a breach of the international obligations of the target country; and (b) the breach of such obligations causes injury on a State or group of States giving them the right to retorsion/retaliation. The notion of extraterritorial source of injury giving rise to the right to retorsion/retaliation is clear for political or commercial disputes, but less so for claims of violations of human rights overseas. Be that as it may, the measures taken by the aggrieved State(s) might have been qualified as wrongful had it not been for the fact that they are a proportionate response to a breach of the international obligations by the target country. This legitimacy would also depend on the source countries having given due notice to the target country to have to comply with its international obligations. However, the legitimacy of retorsion/retaliation may be put in doubt if the negative human rights impact of the unilateral coercive measures undermines basic human rights or if the measures are pursued indefinitely without any progress in achieving their proclaimed objective. Thus, human rights law mitigates the rigors of international law.[15]

Next year (2016) Jazairy paid attention to the fact that

(A/HRC/30/45, para. 20). UN Official Documents. https://documents.un.org/doc/undoc/gen/g15/177/05/pdf/g1517705.pdf

[14] UN General Assembly Human Rights Council, 2015, para. 37.

[15] *Id.*

> The International Court of Justice has already considered the legality of economic sanctions under public international law. Called to rule on, inter alia, the legality of acts of "economic pressure" exercised by the United States of America against Nicaragua, the Court stated that "a State is not bound to continue particular trade relations longer than it sees fit to do so, in the absence of a treaty commitment or other specific legal obligation." This suggests that the freedom to impose measures restricting trade with a targeted State is circumscribed to situations where such measures would not involve a violation of existing treaty obligations. This leaves the Court much to decide upon as regards unilateral coercive measures, their legality or otherwise under public international law, and their conformity or otherwise with human rights, including an assessment of the legal significance and consequences of repeated resolutions of the General Assembly condemning recourse to unilateral coercive measures.[16]

In his 2017 report Jazairy concluded that

> most international businesses, while legally not subject to the jurisdiction of the targeting State, will in practice be unwilling to entertain any economic relations with parties in the targeted State that might lead to their "violating" the provisions of the extraterritorial sanction regime – and thus might jeopardize their ability to pursue their own business activities in the targeting State. This has led to the damaging practice of over-compliance by trading partners of targeted countries. The result is a de facto blockade of the target State, voluntarily complied with by economic actors that are not even legally subject to the jurisdiction of the targeting State. The distinct additional impact of extraterritorial sanctions may also be related to their effects on the targeted State's ability to gain access to international financial institutions, foreign financial markets and international aid. As an example, the impact of the extraterritorial sanctions imposed on Cuba by the United States (before their lifting, de jure rather than de facto, in 2016) on the country's ability to conduct commerce with the outside world and access international financial markets has been described as amounting de facto to a global embargo. The Helms–Burton Act had the effect of blocking access by Cuba to global financial institutions, as well as to access to the SWIFT financial messaging system, which had severe effects in the context of the economic crisis of Cuba.[17]

According to Jazairy's following year (2018) report,

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[16] UN General Assembly Human Rights Council. (2016, August 2). *Report of the Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights* (A/HRC/33/48, para. 22). UN Official Documents. https://documents.un.org/doc/undoc/gen/g16/171/14/pdf/g1617114.pdf

[17] UN General Assembly Human Rights Council. (2017, July 26). *Report of the Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights* (A/HRC/36/44, paras. 27–28). UN Official Documents. https://documents.un.org/doc/undoc/gen/g17/224/28/pdf/g1722428.pdf

> When sanctions, especially those purporting to have extraterritorial effect, are used as a routine foreign policy tool against each and every State, Government or entity that the most prolific sanctions user unilaterally determines, on the basis of questionable "evidence" or mere suspicions or allegations that a corrupt regime engaged in malign activities is attempting to subvert Western democracies, the very architecture of the international system based on the Charter of the United Nations and the International Bill of Human Rights is at risk. It will be increasingly difficult to maintain an international order allowing for international cooperation and understanding, effective respect for and promotion of human rights, or even mere coexistence among States, if sanctions and embargoes grounded in the rhetoric of confrontation become commonplace tools and take precedence over normal diplomatic intercourse.[18]

In his 2019 report, Jazairy conducted a detailed analysis of the current economic sanctions that various countries have imposed against Iran, Cuba, Venezuela, Russia, Qatar, Palestine, Syria and Yemen. In particular,

It should be recalled that the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 has found that the blockade constitutes collective punishment of the people of Gaza, contrary to Article 33 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) (A/70/392, para. 22, and A/73/175, para. 30). The Special Rapporteur also cannot but draw attention to an alarming recent report in which the United Nations Relief and Works Agency for Palestine Refugees in the Near East states that more than one million people in Gaza – half of the population of the territory – may not have enough food by June 2019 as a result of the blockade coupled with other factors such as successive conflicts that have razed entire neighbourhoods and public infrastructure to the ground … Rejection of the United States embargo on Cuba has become so widespread within the international community that in 2018 a near-universal consensus was reached by the General Assembly. Moreover, successive Assembly resolutions nominally concerned with the Cuban embargo actually have a broader scope and broader implications, since they contain language that clearly applies to unilateral coercive measures in general, whatever the context. In its resolutions, the Assembly calls on all States to refrain from using unilateral coercive measures. The measures condemned are laws and regulations adopted by States the extraterritorial effects of which affect the sovereignty of other States, the legitimate interests of entities or persons under their jurisdiction and the freedom of trade and navigation.[19]

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[18] UN General Assembly Human Rights Council. (2018, August 30). *Report of the Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights* (A/HRC/39/54, para. 29). UN Official Documents. https://documents.un.org/doc/undoc/gen/g18/264/85/pdf/g1826485.pdf

[19] UN General Assembly Human Rights Council. (2019, July 5). *Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights – Report of the Special Rapporteur on the Negative Impact of*

Jazairy also offered to include to the draft General Assembly declaration on unilateral coercive measures and the rule of law the provision that

> Unilateral coercive measures requiring extraterritorial application to third parties of laws adopted by a source country against a target country, and which call for secondary sanctions on such third parties in case of non-compliance, are unlawful under international law.[20]

In March 2020, the newly appointed UN Special Rapporteur on the negative impact of the unilateral coercive measurers Alena Douhan in her first annual report stated that

> The extraterritorial effects of unilateral sanctions raise special concerns for the Special Rapporteur due to the increasing number of reported cases of human rights violations. This includes the broad scope of aspects, starting from the general notion of extraterritoriality as regards unilateral action, the legal qualification of extraterritorial activity, the impact of extraterritorial application on third States, their nationals and legal entities, and various aspects of overcompliance … The Special Rapporteur insists that economic sanctions today can often be qualified as unilateral coercive measures that undermine normal inter-State relations and the rule of law and that bear enormous humanitarian costs.[21]

In report the following year (2021) Douhan underlined that

> The Special Rapporteur notes that the traditional approach of the 1970s, that a legitimate (proper) purpose or motive can justify the use of coercion, was repeatedly used when seeking to justify the concept of humanitarian intervention in the 1990s. However, no grounds for this approach can be found in international law … The Special Rapporteur recalls the existence of general consensus on the illegality of the application of extraterritorial sanctions from the side of legal doctrine, among directly targeted States and also among countries traditionally viewed as imposing sanctions … The Special Rapporteur recalls that in accordance with the draft articles on responsibility of States for internationally wrongful acts, countermeasures may only be taken by the directly affected States in response to a violation of an international obligation in order

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Unilateral Coercive Measures on the Enjoyment of Human Rights (A/HRC/42/46, paras. 39, 44). UN Official Documents. https://documents.un.org/doc/undoc/gen/g19/206/24/pdf/g1920624.pdf

[20] UN General Assembly Human Rights Council. (2019, August 29). *Elements for a Draft General Assembly Declaration on Unilateral Coercive Measures and the Rule of Law (Updated) – Report of the Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights* (A/HRC/42/46/Add.1, para. 3). UN Official Documents. https://documents.un.org/doc/undoc/gen/g19/257/21/pdf/g1925721.pdf

[21] UN General Assembly Human Rights Council. (2020, July 21). *Negative Impact of Unilateral Coercive Measures: Priorities and Road Map – Report of the Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights* (A/HRC/45/7, paras. 59, 75). UN Official Documents. https://documents.un.org/doc/undoc/gen/g20/187/55/pdf/g2018755.pdf

> to restore fulfilment of that obligation; the measures must be temporary and proportionate to the violation, and must not violate human rights, peremptory norms of international law or humanitarian law … The Special Rapporteur also notes the need to observe other norms of international law when taking unilateral action. In particular, customary norms on the immunity of State property provide for the immunity of central bank assets and property used for public functions as belonging to the corresponding State rather than to its Government or any individual … Unilateral measures may be taken by States or regional organizations in compliance with international legal standards only: that is, they are taken with the authorization of the Security Council acting under Chapter VII of the Charter of the United Nations in response to a breach of peace, a threat to peace or an act of aggression, and they do not violate any international treaty or customary norm, or their wrongfulness is excluded in accordance with international law in the course of countermeasures in full compliance with the rules of law of international responsibility. Unilateral sanctions that do not satisfy the above criteria constitute unilateral coercive measures and are illegal under international law.[22]

In her report (2022) Douhan stated that

> The Special Rapporteur joins the position of many States that the legality of secondary sanctions imposed extraterritorially is doubtful in international law, firstly in view of the questions that are often raised about the legality of unilateral primary sanctions; secondly because the extraterritorial enforcement of unilateral sanctions is widely deemed as infringing on the sovereignty of other States by violating the legal principles of jurisdiction and non-intervention in the internal affairs of States; and thirdly because of conflicts with the obligations of sanctioning States under international trade law, friendship and commerce treaties, international investment agreements and the International Covenant on Civil and Political Rights. She highlights that foreign targets of secondary sanctions are generally not charged with crimes or tried, and are thereby denied the due process rights enshrined in Articles 14 and 15 of the International Covenant on Civil and Political Rights (ICCPR). Despite this, given the enormous expansion in the use of primary sanctions in recent years, the use of secondary sanctions has grown considerably and the fear of being targeted by them has reinforced a global trend of overcompliance with primary sanctions. Moreover, she notes that the growing use of secondary sanctions raises the prospect for overcompliance with them as well, indeed, the potential for tertiary sanctions against parties that trade with the targets of secondary sanctions has already been reported … The Special Rapporteur

[22] UN General Assembly Human Rights Council. (2021, July 8). *Unilateral Coercive Measures: Notion, Types and Qualification – Report of the Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights, Alena Douhan* (A/HRC/48/59, paras. 24, 59, 74, 84, 98–99). United Nations Digital Library System. https://digitallibrary.un.org/record/3936670?v=pdf

> notes that initiatives by States to diminish overcompliance have been sporadic and modest, and there is no indication that sanctions are being designed to minimize it. Indeed, four key drivers of overcompliance remain in place: the complexity of sanctions regimes; the vagueness of their provisions; tough enforcement measures; and threats of secondary sanctions or criminal or civil penalties. As earlier sanctions remain unclear, evidence that more recent sanctions also lack clarity is the overcompliance that occurs with them as well, all while enforcement has become harsher.[23]

In 2023, Douhan reported that

> The global community is currently facing the expansion and increasing complexity of various forms of unilateral sanctions regimes applied to governmental and non-governmental actors and economic sectors, in addition to threats of secondary sanctions, civil and criminal penalties for violations or the circumvention of sanctions and the growing use of zero-risk policies and overcompliance by banks, producers of goods, transport and insurance companies and other private actors. Unilateral sanctions and overcompliance have a detrimental impact on the implementation of all aspects of the right to health of all people in the countries under sanctions, including access to adequate medicine, health-care facilities, medical equipment and qualified medical assistance; the prevention and control of disease; and an adequate number of health professionals with access to training and up-to-date scientific knowledge, technologies, research and exchange of good practices. Such sanctions also affect all relevant underlying rights, including the rights to adequate food, clean water, sanitation, electricity and fuel, to freedom of movement and to a favourable environment, economic and labour rights and the elimination of poverty. Women, girls, children, persons with disabilities, persons suffering from rare and severe diseases, older persons and socioeconomically marginalized groups are the most vulnerable in the face of unilateral sanctions. Increasing mortality rates, reduced life expectancy, the rising prevalence of physical and mental health conditions and disabilities due to the lack of timely diagnosis and treatment and increasing physical and psychological suffering are only some of the serious tangible consequence. These constitute violations of human rights, such as the rights to life and to freedom from torture and inhuman treatment, and the principle of non-discrimination.[24]

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[23] UN General Assembly Human Rights Council. (2022, July 15). *Secondary Sanctions, Civil and Criminal Penalties for Circumvention of Sanctions Regimes and Overcompliance with Sanctions – Report of the Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights, Alena F. Douhan* (A/HRC/51/33, paras. 13, 14, 70). UN Official Documents. https://documents.un.org/doc/undoc/gen/g22/408/16/pdf/g2240816.pdf

[24] UN General Assembly Human Rights Council. (2023, March 28). *Impact of Unilateral Coercive Measures on the Right to Health – Report of the Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights, Alena Douhan* (A/HRC/54/23, paras. 86–88). UN Official Documents. https://documents.un.org/doc/undoc/gen/g23/148/52/pdf/g2314852.pdf

In her last available report (2024), Douhan stated that

> Despite three calls for contributions sent by the Special Rapporteur (for the development of the methodology, the establishment of the monitoring tool and the collection of information), no evidence has been received of any initiatives by sanctioning State to monitor and assess the humanitarian impact of their unilateral measures, despite their obligation under the principle of due diligence to take all measures necessary, including by applying humanitarian precaution to ensure that their activities and activities under their jurisdiction or control do not affect human rights. The preliminary results of the monitoring demonstrate the tremendous impact of unilateral coercive measures on all humanitarian areas (blocks) indicated in the questionnaire and reflect their destructive effects on the most vulnerable groups (children, women, persons with disabilities, migrants, refugees, asylum-seekers, internally displaced persons, persons in extreme poverty).[25]

2. Broken Windows

Economic sanctions could be theorized within a variety of frameworks. In this chapter, we look at the broken windows theory as an initial perspective of seeing how sanctions work. The "broken windows theory" developed by the criminologists James Q. Wilson and George L. Kelling to fight crime in New York has made its authors famous. One of the cornerstones of the theory is the idea that offenses of social order should not be allowed with impunity to anyone. An atmosphere in which law and order are lacking is like a virus infection which will spread if it is not suppressed. If some part of the population is allowed to openly to commit offenses and with impunity, the whole social system instantly becomes destabilized.

In 1982, after another year of record lawlessness in New York City, the two college professors advanced or, more accurately, rekindled a plausible and uncomplicated theory that would revolutionize law enforcement in the city: Maintaining public order also helps prevent crime. "If a window in a building is broken and is left unrepaired, all the rest of the windows will soon be broken," Wilson and Kelling wrote.[26]

Citing Wilson and Kelling (1982) in more detail:

> at the community level, disorder and crime are usually inextricably linked, in a kind of developmental sequence. Social psychologists and police officers tend

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[25] UN General Assembly Human Rights Council. (2024, August 9). *Monitoring and Assessment of the Impact of Unilateral Sanctions and Overcompliance on Human Rights – Report of the Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights, Alena F. Douhan* (A/HRC/57/55, paras. 81, 83). UN Official Documents. https://documents.un.org/doc/undoc/gen/g24/133/16/pdf/g2413316.pdf

[26] Roberts, S. (2014, August 10). Author of 'Broken Windows' policing defends his theory. *The New York Times*. https://www.nytimes.com/2014/08/11/nyregion/author-of-broken-windows-policing-defends-his-theory.html

> to agree that if a window in a building is broken and is left unrepaired, all the rest of the windows will soon be broken. This is as true in nice neighborhoods as in rundown ones. Window-breaking does not necessarily occur on a large scale because some areas are inhabited by determined window-breakers whereas others are populated by window-lovers; rather, one unrepaired broken window is a signal that no one cares, and so breaking more windows costs nothing. (It has always been fun.) … A particular rule that seems to make sense in the individual case makes no sense when it is made a universal rule and applied to all cases. It makes no sense because it fails to take into account the connection between one broken window left untended and a thousand broken windows. Of course, agencies other than the police could attend to the problems posed by drunks or the mentally ill, but in most communities especially where the "deinstitutionalization" movement has been strong – they do not.[27]

I believe that this theory, strangely enough, is applicable to interstate relations in general and to international economic sanctions in particular. Social disorder is social disorder regardless of scale, and often there is no significant difference between development disorders on the local (city) level and the global level.

Imagine, a law that would allow individuals to break windows on Thursdays or Sundays exists. Or, perhaps, a general law against break windows exists but, in practice, citizens whose surnames begin with letters A–K, and their relatives, would not be punished for breaking the windows. It is obvious that other citizens never stop breaking windows, which would lead to general social disorder. A successful anti-disorder strategy must be based on zero tolerance.

Analogously, for international relations applications, if we punish countries for something selectively (e.g., for violation of human rights), such violations will never stop. Effective anti-violation strategy could be based on punishing all offenders to everybody. In reality, the cruel government of a developing country, that commit a human rights violation, is punished only if none of the major world powers support it. Governments of certain developing countries have no incentives to stop massive violations of the human rights of their citizens, because they are sure in support by certain governments in the developed world.

The next aspect worth researching is the behavior of the punishers. Imagine, that everybody in a troubled city such as Newark or New York City will be punished for breaking windows, except the officers of the local police departments. It's clear the windows will continue to be broken. Similarly, in the field of international relations violations of human rights will never be stopped by economic sanctions, if the governments imposing sanctions commit the same violations in the territory of other countries. Developed countries provide the models of behavior, positive or negative,

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[27] Wilson, J. Q., & Kelling, G. L. (1982). The Police and Neighborhood Safety: Broken Windows. *Atlantic Monthly, 249*(3), 29–38.

for governments of developing countries, as adult people provide such models for teenagers. So, both sorts of demonstrated models – positive and negative – at some future time are likely to be repeated by governments of developing countries.

Also, imagine that a joint group of Boston and Detroit local police officers came to Newark to arrest a local resident for breaking windows in Newark. Such an arrest will never be effective, because neither Boston nor Detroit police has a legitimate source of power for operating in Newark. Only local Newark police and, in some specific cases, the federal government, have legitimate authority for coercion in Newark. The analogue in international relations means that sanctions will never be legitimate for people of country A if their outside source is an alliance of several other countries (like the alliance of Boston and Detroit police working in Newark arbitrarily) rather than the United Nations Security Council acting on behalf of the international community as a whole (analogous to the federal government).

3. Sanctions as a Tool of International Policy: Developed Countries *vs* Developing Countries

Most countries, for strategic reasons, try to control the export of weapons. Nevertheless, no other country in the world has imposed so many sanctions and with such frequency as the United States. As the only superpower and as the most powerful economy of the world, the United States can unilaterally exercise more economic power than any other country.[28]

First of all, we emphasize that economic sanctions are nothing new. In my opinion, the most extensive empirical study of economic sanctions belongs to a group of American scientists from the Washington Peterson Institute for International Economics, including Gary C. Hufbauer, Jeffrey J. Schott, Kimberly A. Elliott and Barbara Oegg. The first two have been engaged in professional research economic sanctions for more than 30 years since the early 1980s, the latter two later joined as co-researchers. Their work[29] is the gold standard in an academic research of economic sanctions. As Carter concluded, "there have been numerous studies of the effectiveness of one or more recent uses of sanctions. The Hafbauer–Schott study, which ably draws on previous scholarly work, is the most comprehensive."[30] Selden considered the Hafbauer–Schott study the most comprehensive work on sanctions to date.[31] Taylor said that Hufbauer, Schott, Elliott, Oegg "names remain

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[28] Osieja, H. (2006). Economic Sanctions as an Instrument of U.S. Foreign Policy: The Case of the U.S. Embargo against Cuba. *Academia.edu*. https://www.academia.edu/63768702/Economic_Sanctions_as_an_Instrument_of_U_S_Foreign_Policy_The_Case_of_the_U_S_Embargo_against_Cuba

[29] Hufbauer et al., 2009.

[30] Carter, 1998.

[31] Selden, 1999, p. 8.

at the very forefront of the sanctions research."[32] The last edition of this Hufbauer et al. study (2007) includes information current through 2006. I extracted the data for the most recent 20 years period (1987–2006) in as far as I believe that it is more relevant for analysis of the contemporary world situation. My calculations, based on the Hufbauer et al. data, have shown that for 20 years (1987–2006) the United States imposed economic sanctions against other countries 49 times (including 8 times in the framework of the relevant UN Security Council resolutions).

Talking about sanctions affecting the specific country is rarely politically and emotionally neutral, even for academics. In a certain situation, they could sincerely believe for some personal reasons, that some country deserves or does not deserve sanctions against it. It can have an essential impact on the research results and make them biased. So, the representative of Algeria in the UN General Assembly was right when voicing regret at the continued double standards in the proliferation of country-specific resolutions. Selective resolutions that targeted specific countries undermined the mandate of the Human Rights Council.[33]

To avoid such subjective factors, we would like to pay special attention to the question of how countries voted for politically neutral UN resolutions which were related to sanctions in general, not against any specific country. The resolutions we speak about use polite diplomatic language and do not blame anybody for anything. They look like a neutral impartial test as to whether voting countries believe in general that sanctions are a good or bad method of international policy. At first, we describe the narrower context of the UN Human Rights Council, where only 47 UN members vote. Then, we make the switch to the wider UN General Assembly where all UN members participate.

These resolutions against unilateral coercive measures as such regardless of their target were adopted by the UN Human Rights Council in 2019,[34] twice in 2020[35] and in 2022[36] have some minor textual differences, but the same spirit. Voting results

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32 Taylor, 2010, pp. 10–12.

33 UN General Assembly. (2014, December 18). *Adopting 68 Texts Recommended by Third Committee, General Assembly Sends Strong Message Towards Ending Impunity, Renewing Efforts to Protect Human Rights* (GA/11604). United Nations. http://www.un.org/press/en/2014/ga11604.doc.htm

34 UN General Assembly Human Rights Council. (2019, 5 April). *Resolution Adopted by the Human Rights Council on 21 March 2019 – The Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights* (A/HRC/RES/40/3). UN Official Documents. https://documents.un.org/doc/undoc/gen/g19/098/96/pdf/g1909896.pdf

35 UN General Assembly Human Rights Council. (2020, July 1). *Resolution Adopted by the Human Rights Council on 22 June 2020 – The Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights* (A/HRC/RES/43/15). UN Official Documents. https://documents.un.org/doc/undoc/gen/g20/159/08/pdf/g2015908.pdf; UN General Assembly Human Rights Council. (2020, October 12). *Resolution Adopted by the Human Rights Council on 6 October 2020 – Human Rights and Unilateral Coercive Measures* (A/HRC/RES/45/5). UN Official Documents. https://documents.un.org/doc/undoc/gen/g20/259/79/pdf/g2025979.pdf

36 UN General Assembly Human Rights Council. (2022, April 12). *Resolution Adopted by the Human Rights Council on 31 March 2022 – The Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights* (A/HRC/RES/49/6). UN Official Documents. https://documents.un.org/doc/undoc/gen/g22/307/98/pdf/g2230798.pdf

demonstrate that these resolutions were adopted by votes of non-European developing countries plus Russia minus Marshall Islands which always voted in favour or at least abstained. All developed countries, European developing countries and Marshall Islands always voted against.

These results are not a surprise as far as historically similar results have been demonstrated earlier while the composition of the UN Human Rights Council was different. Jazairy reported in 2015 that

In this regard, there is a difference in views among Member States as to whether source countries should simply put "an immediate end to unilateral coercive measures," which is the view of target countries and developing countries at large, or whether such measures should remain a key component of foreign policy that at best requires a small adjustment to mitigate their adverse human rights impacts, which is the view of most source countries. This difference in views finds expression in the polarized voting pattern that has prevailed so far in the adoption of resolutions pertaining to unilateral coercive measures. For developing States, adopting guidelines should not signify a recognition of the legitimacy of such measures as a tool of foreign policy, a position they do not countenance. For the source countries, mostly advanced States, of which one group has indeed adopted exhaustive guidelines, the issue might signify no more than sharing such guidelines with others.[37]

To look at the broader world picture, let's move forward from UN Human Rights Council to the UN General Assembly Resolution 75/181 adopted on December 28, 2020, by 131 votes 56 to, with 0 abstention, 6 non-voting.[38] All developed countries and European developing countries voted against the resolution, and the rest of the world, with few exceptions, voted for.[39] This position of European countries is regrettable, since in the past they have been less supportive of the use of sanctions against developing countries. For example, the US Helms–Burton Act of 1996 imposed penalties on third parties doing business in Cuba, bringing sharp protests from Canada, Mexico, European countries and many others. On June 4, 1996, the General Assembly of the Organization of American States passed a resolution asking for a legal opinion on the embargo from the Inter-American Juridical Committee. The Committee returned an opinion that Helms–Burton "is not in conformity with international law." On November 12, 1996, the UN General Assembly

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[37] UN General Assembly Human Rights Council. (2015, August 10). *Report of the Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights, Idriss Jazairy* (A/HRC/30/45, para. 53). UN Official Documents. https://documents.un.org/doc/undoc/gen/g15/177/05/pdf/g1517705.pdf

[38] UN General Assembly Human Rights Council. (2020, December 28). *Resolution Adopted by the General Assembly on 16 December 2020 – Human Rights and Unilateral Coercive Measures* (A/RES/75/181). UN Official Documents. https://documents.un.org/doc/undoc/gen/n20/372/60/pdf/n2037260.pdf

[39] Voting Information. (n.d.). United Nations. https://www.un.org/en/library/page/voting-information

adopted a resolution again condemning the embargo by the largest vote ever – 117 ayes, 3 nays and 25 abstentions.[40] All the European Union countries voted in the affirmative.[41]

In 2011, while the discussion in the UN the representative of the United States said that each State had the right to decide how to conduct its trade policy, and restricting trade was legitimate when deemed necessary. As part of that strategy, sanctions were a successful means for achieving foreign policy objectives peacefully, and were always applied with specific aims in mind, such as restoring the rule of law and preventing nuclear proliferation or the financing of terrorism. The draft resolution sought to limit the international community's means of responding peacefully to threats, he said, adding that his delegation would vote against it. Opposing to him, the representative of Mexico reiterated his delegation's strong rejection of unilateral coercive economic measures, saying they had no basis in the United Nations Charter. They had severe human consequences, were in violation of international law and removed diplomacy as a viable channel for seeking resolution. Emphasizing that Mexico was historically principled in its opposition to sanctions, except those resulting from Security Council decisions, he said multilateralism remained the best way to resolve disputes and ensure peaceful coexistence, adding that his delegation would vote in favor of the draft.[42]

In my opinion, such a US–Mexico polemic is a clear demonstration of the difference between developed and developing countries' positions in the sphere of unilateral sanctions. The Harvard University professor Gordon provides a detailed legal motivation of why US economic sanctions against Iraq violated human rights so massively and had such catastrophic consequences for national development that it had all the legal elements of genocide. He supports similar positions by Denis Halliday, the former UN humanitarian coordinator in Iraq, and UN Commission on Human Rights working paper written by Marc Bossyut who accused the US of genocide in Iraq earlier. Gordon reminds of impressive US Congressman Ron Paul words said in the Congress in 2001:

Our sanctions policies undermine America's position as a humane nation, bolstering the common criticism that we are a bully with a respect for people outside our borders. Economic common sense, self-interested foreign policy goals, and

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[40] For deeper analysis of US sanctions against Cuba history see Haney, P., & Vanderbush, W. (2005). *The Cuban Embargo: The Domestic Politics of an American Foreign Policy.* University of Pittsburgh Press; Rodman, K. A. (2001). *Sanctions Beyond Borders: Multinational Corporations and US Economic Statecraft.* Rowman & Littlefield.

[41] Paul, J. A., & Akhtar, S. (1998, August). *Sanctions: An Analysis*. Global Policy Forum. https://www.globalpolicy.org/component/content/article/202-sanctions/41612-sanctions-an-analysis.html

[42] UN General Assembly. (2011, December 1). *Second Committee Approves Text Urging Elimination of Unilateral Coercive Economic Measures against Developing Countries* (GA/EF/3329). United Nations. http://www.un.org/press/en/2011/gaef3329.doc.htm

humanitarian ideals all point to the same conclusion: Congress should work to the end economic sanctions against all nations immediately.[43]

Like in the law of armed conflict, in economic sanction relations, UN, understanding its lack of power to prevent some situations, attempts at least to reduce the consequences for the civilian population. Definitely one should welcome such attempts. At the same time, the International Court of Justice (ICJ) was the sole body who challenged the concept of "emergency" in connection with international trade embargos. Such ICJ case-law is exceptionally important for our analysis, because it touches both human rights and economic sanctions issues at the same time. In his famous decision of June 27, 1986, the ICJ found that on May 1, 1985, the President of the United States made an Executive Order, which contained a finding that "the policies and actions of the Government of Nicaragua constitute an unusual and extraordinary threat to the national security and foreign policy of the United States" and declared a "national emergency." According to the US President's message to Congress, this emergency situation had been created by "the Nicaraguan Government's aggressive activities in Central America." The Executive Order declared a total trade embargo on Nicaragua, prohibiting al1 imports from and exports to that country, barring Nicaraguan vessels from United States ports and excluding Nicaraguan aircraft from air transportation to and from the United States.[44]

ICJ interpreted that case based on the mutual US–Nicaraguan 1956 Treaty of Friendship, Commerce and Navigation, not GATT. ICJ underlined the lack of its jurisdiction to solve GATT-based disputes.[45] However, de facto ICJ interpreted GATT, saying that the burden of proof to justify security restrictions in the Treaty is differ than in GATT because in the Treaty the word "necessary" is used unlike the word "consider" in GATT. Also, speaking of Article XXI of the GATT, ICJ says that

> This provision of GATT, contemplating exceptions to the normal implementation of the General Agreement, stipulates that the Agreement is not to be construed to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests, in such fields as nuclear fission, arms, etc.

So, the ICJ demonstrates clear doubts that Article XXI of the GATT is related to trade of non-military goods and services.

In its judgement ICJ alleges that

> A State is not bound to continue particular trade relations longer than it sees fit to do so, in the absence of a treaty commitment or other specific legal obligation; but where there exists such a commitment, of the kind implied

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43 Gordon, J. (2010). *Invisible War: The United States and the Iraq Sanctions.* Harvard University Press.

44 International Court of Justice. (1986, June 27). *Case concerning Military and Paramilitary Activities in and Against Nicaragua*. https://www.icj-cij.org/files/case-related/70/070-19860627-JUD-01-00-EN.pdf

45 *Id.* paras. 222, 245.

> in a treaty of friendship and commerce, such an abrupt act of termination of commercial intercourse as the general trade embargo of 1 May 1985 will normally constitute a violation of the obligation not to defeat the object and purpose of the treaty. (Para. 276)

It raises a question about whether GATT and GATS create for their members a specific obligation to trade. We believe they do.

Such an ICJ decision is also prominent because the Court obliged the US

> to award to the Republic of Nicaragua the sum of 370,200,000 United States dollars, which sum constitutes the minimum valuation of the direct damages, with the exception of damages for killing nationals of Nicaragua, resulting from the violations of international law indicated in the substance of this Memorial. (Paras. 16, 283–285)

However, such sum has never been paid by the US even partially.

4. Megaregionalism, WTO and Sanctions

As WTO Director-General Pascal Lamy reported,

> The GATT/WTO's traditional mainstay of non-discriminatory trade has increasingly yielded ground to preferential arrangements. This has occurred for a complex array of reasons, increasing trading opportunities but also raising challenges for the core principle of non-discrimination enshrined in multilateralism. Preferential arrangements established geographically (among countries) will by definition embody some elements of discrimination. Agreements focusing on specific issues may or may not be discriminatory. This will depend on their design. The rise of regionalism raises important questions both as to the role and the relevance of the WTO. The expansion of preferential trade opening among subsets of countries may be easier or politically more attractive, but the economic benefits from such opening may be less. Governments need to ask themselves if there are good reasons why the fundamental logic of non-discrimination – a cornerstone of post-war trade governance – no longer serves a useful purpose. We are also convinced that once this process of consolidation is under way, members will find it easier to make progress on re-writing GATT/WTO rules in this area – rules that are widely regarded as incomplete and ineffectual. The multilateral system will remain deficient until a real set of disciplines is established to facilitate the convergence of PTAs with the multilateral trading system.[46]

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[46] Panel on Defining the Future of Trade. (2013, April 24). *The Future of Trade: The Challenges of Convergence – Report of the Panel on Defining the Future of Trade convened by WTO Director-General Pascal Lamy* (pp. 53–54). World Trade Organization. https://www.wto.org/english/thewto_e/dg_e/dft_panel_e/future_of_trade_report_e.pdf

As far as two of four original WTO plurilateral agreements (PTAs) – the International Diary Agreement and International Bovine Meats (IBM) were terminated in 1997, two plurilateral agreements remain into force – Agreement on Government Procurement (GPA) and Agreement on Civil Aircraft. Development of plurilateral WTO agreements potentially is a good compromise between multilateralism and bilateralism in the WTO.

Within the framework of the WTO Uruguay Round it was left unchanged the existed GATT rules, dating from 1947, about the possibility of the establishment of virtually any restriction on international trade based on the national security or emergency in international relations. Moreover, these rules in 1947, with the creation of the WTO in 1995, were extended to trade in services. If the world continues to trade on the basis of legal standards in 1947, the real rules of international trade are rules of the era of the divided world and the Cold War. If the political standards of the 1940s really done, why it is not legally fixed by adjusting composed while legal documents?

Conclusion

Economic sanctions also often brutally violate human rights. In fact, this is a mechanism of management of development of individual countries, as they imposed by the more developed countries in order to brake the development of economically less developed countries, to prevent the latter to reduce its backlog, to catch up with more developed countries. Thus, it decreases the pace of the overall progress of the global economy. At the same time, the economic development of the politically loyal to the regime promoted, even absolutely odious regimes, which is essentially a monopoly on the development, the elimination of the interstate fair competition in the development.

Some tensions related to the international trade of specific goods and services between developed countries always exist, and the database of WTO Dispute Settlement Body provides a lot of information on such disputes. However, developed countries have stopped using really intensive economic sanctions against each other. At the same time, as we demonstrated, developed countries sincerely believe that they have the right to impose economic sanctions against developing countries. It artificially makes economic sanctions "usual," "ordinary" in international trade. Moreover, the general atmosphere of the "normality" of economic sanctions, formed by some developed countries, creates incentives for developing countries also to impose them against other developing countries. Factually, we observe the escalation of economic sanctions initially triggered by some developed countries and then widely expanded which undermine normal international trade.

The fundamental ideological issue is whether the right to foreign trade exists as a part of national sovereignty. So, is trade a right or reward, privilege for good behavior? If exists a right for foreign trade, albeit with some reasonable restrictions, like

weapons and dual-use goods, the governments should not have a right for such wide disproportional interventions into foreign trade like allowed by WTO rules now.

The positive impact of the results of the Uruguay Round is overestimated in the sense that the benefits of lower tariffs on goods, some technically more liberal rules for trade in services, if to buy goods/services could be impossible due to economic sanctions imposed by politicians. With the exception of trade in goods and services of clearly military use, traders must obtain the right to freely choose their foreign trading partners. WTO is unnecessary for arranging the trade relationships between countries with brilliant relations, they can do without the WTO. The role and mission of the WTO may be unique as a facilitator of international development by building a trading system between states with complicated political relations.

Doha round exit from the crisis can be achieved by abandoning the ideology of a binding agreement which requires a consensus of all members of the WTO, which in many areas is unattainable. To provide real access to foreign trade as a cornerstone of the sovereignty of developing countries, the WTO needs a shift for plurilateral agreements. First of the latter should be the anti-sanctions agreement.

At the same time, I would like to note that, unfortunately, BRICS bloc does not currently offer other developing countries to sign any specific agreements that could improve their economic situation like the anti-sanctions' agreement signed by BRICS countries. Key provisions of this potential agreement are the following:

• WTO members, have signed an agreement, waive the right to apply to each other trade restrictions based on national security and on emergency in international relations, except for the goods and services of military use specified in the annex to the agreement;

• the right to the introduction of trade restrictions to the base of state of war is only limited of direct trade between the warring countries;

• the right to the introduction of trade restrictions to the base of commitments in the framework of the UN Charter is limited to situations of enforcement of sanctions under UN Security Council resolution;

• the introduction of an expedited review of the new separate WTO tribunal of disputes of economic sanctions in violation of the terms of this agreement. This tribunal is granted to award monetary damages for violations of agreement, the ceiling of which is fixed in agreement;

• deny of enforcement, as contrary to public order, of decisions of the governments, courts and tribunals of third countries, if their decisions are based on the application of economic sanctions against member of the agreement.

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