



Articulation Between Unilateral and Multilateral Sanctions

2020 colloquium on
International Law

CHALLENGING AN

WINTERDEPENDENT
WORLD / SANCTIONS /

Professor Jean-Marc Thouvenin
Secretary-General

The Hague Academy of International Law

A Broad Picture

Old Practice

- Ancient Greece
- Napoleon
- Jefferson
- Chinese Boycotts
- Wilson

Multilateralisation

- Art. 16.1 of the League of Nations Covenant
- Art. 41 of the UN Charter

Unilateral Practice

- Trade with the Enemy Acts
- *Arab Boycott v Israel*
- *UK v Mossadengh*
- *USA v Cuba* (and so many more)

From broad ... to smart ... to broad (again) sanctions

Targeted killings

Legal Analysis

Are unilateral economic sanctions lawful?

- Principle of non-interference?
- Exercise of State sovereignty
- Extraterritoriality

What if a treaty prohibits restrictions on international trade or financial relations?

Can a State justify such restrictions in the context of the adoption of unilateral economic sanctions?

Five Hypotheses

1. Unilateral sanctions implement a UN Security Council resolution adopted on the basis of Chapter VII of the UN Charter.

- Art. 103 UN Charter
- Consent
- Circumstance precluding wrongfulness

2. Unilateral sanctions implement a UN General Assembly recommendation.

- Resolution 377(V)
- Resolution ES-9/1 of 5 Feb 1982
- Art. 103 does not apply
- Circumstance precluding wrongfulness (counter or third party measure)?

3. Unilateral sanctions as supplementary sanctions (additional to multilateral sanctions)

- 'Floor v ceiling' debate
- Must be assessed on their own face
- Circumstance precluding wrongfulness (counter or third party measure)?

4. Unilateral sanctions implement a UNSC 'almost' resolution – not adopted because of a veto

- No decision
- Circumstance precluding wrongfulness (counter or third party measure)?

5. Unilateral sanctions in the absence of multilateral sanctions