

Summary

The Application of Economic Means of Coercion in International Law

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1. By economic means of coercion in the context of this paper I understand the use of economic power by a subject of international law with the aim of forcing another subject of international law to take a particular action or to refrain from such action.
2. Two forms of economic means of coercion are of particular interest: the use of economic power by an individual State — or by a group of States — for the enforcement of its own political objectives or the use of economic power by the community of States — as, for example, the United Nations — as a sanction to enforce international law.
3. The prohibition of the use of force in international law does not represent an effective limitation of the use of economic means of coercion. Economic coercion does not amount to force within the meaning of the prohibition of the use of force in international law.
4. The use of economic means of coercion can be a violation of the prohibition of intervention in international law. Between — permissible — economic pressure and — non permissible — economic force no reliable dividing line exists. However, a series of criteria for legally qualifying the use of economic power as intervention contrary to international law in individual cases does in fact exist.
5. The action of intervention presupposes not only a constraint on the recipient, but also the intention on the part of the intervening party to apply force and not “mere” influence. An export embargo, which for the recipient merely leads to a situation of shortage, but not to one of acute emergency, does not constitute intervention any more than an export stop for internal economic reasons, not specifically directed against certain recipients with the objective of forcing them to take a particular action or to refrain from such action.
6. Apart from the prohibition of intervention general international law does not recognize barriers on the use of economic coercion worth mentioning. It is at least questionable whether in an individual case the

concept of “abus de droit” can be invoked to qualify as an international tort the cessation of delivery relationships which have existed over many years and which have established a situation of trust and an actual dependency based upon it. The attempt to utilize human rights for the purpose of limiting the optional use of economic power can scarcely lead to success *de lege lata* either.

7. International treaty law in its bilateral and multilateral variations does not — under normal circumstances — effectively exclude the use of economic means of coercion, because in concrete cases it is almost always possible to take advantage of a complex network of escape and exemption clauses. Neither GATT nor the Articles of Agreement on the International Monetary Fund have engendered decisive progress in this respect.
8. Economic means of coercion are often reactions to conduct contrary to international law and are therefore justified either as reprisals or as sanctions imposed on offenders and disturbers of the peace by the international community in accordance with Chapter VII of the UN Charter.
9. Recommendations of the UN General Assembly calling on all member States to apply economic means of coercion against a certain State do not provide an independent justification in international law for corresponding means of coercion, as long as these measures contradict existing obligations of a contractual or customary nature.
10. There are legal rules, too, in international law the breach of which constitutes an offense “*erga omnes*”, authorizing the taking of reprisals even by such States which initially do not seem to be directly affected by the breach of the law. Examples for such “hard core” legal norms are the basic rules on human rights or certain rules of diplomatic and consular law.
11. International legal protection against the abuse of economic power has considerable gaps. Starting points for increasing the efficacy of this protection are the codificatory efforts to delimit interference and intervention by economic means, the institution of flexible procedural devices to deal with disputes of this nature, the formulation of positive behavioural duties and their incorporation into binding international law, as well as the support rendered to all efforts aimed at increasing the degree of intensity of interdependence in the area of international economic relations by means of treaties and agreements which actually accept the concept of reciprocity as the basis of the legal relationship.

12. There is also a deficit in efficiency as far as — collective — economic measures of coercion are concerned which the community of States initiates as sanctions. Two claims which must be placed high on the relevant list of desiderata are the availability of a suitable national law instrumentarium for transforming relevant decisions taken at the level of international law, and a mechanism which is capable of balancing the various counter-effects generated by economic means of coercion affecting the participants to a collective sanction.