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## THE LEGAL EFFECT OF INTERNATIONAL SANCTIONS ON IRANIAN LEGAL CONTRACTS

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### ABSTRACT

Economic sanctions, it is an instrument of foreign policy and makes it possible for governments to achieve their political goals and objectives of its actions. Iran has been subjected to economic sanctions due to the political situation and foreign policy and this has greatly intensified sanctions against Iran in some periods and with the consensus of some countries, and in recent years has become more serious affected by Security Council resolutions. What will be analyzed in this article, it has the effect of international sanctions on the Islamic Republic of Iran's domestic contracts. The sanctions were imposed on Iran a long time only after the Islamic Revolution, United States since 1980, the Security Council and the Union of Europe of 2006. They embargo against Iran in various fields, including trade and finance. In other cases governments have supported the sanctions America and Europe based on the inherent duty to comply with the Security Council's membership in the United Nations in accordance with Article 25 of the Charter and in accordance with its national interests and even their attempt to impose independent sanctions. Sanctions imposed on Iran do not seem legitimate because of failure to comply with international law. This article will analyze this issue with an emphasis on international contracts.

**Keywords: Sanctions, agreements, international contract, force majeure**

### INTRODUCTION

One of the major issues in the field of contract law, it effects happening on contract by external issues. In this regard,

we can say, these factors can be influenced by the domestic legal system or the system of international law and

other countries. The word is familiar sanctions in the range of rights. However, it works somewhat complex to appear on enforcing contracts, especially international trade agreements. The question always arises whether the scope of the contract that has an embargo on the contract. It must be understood as a political or economic nature of the operation. This is important since the effects of sanctions on its implementation in the scope of the contract. For example, the question is do the sanctions in cases of force majeure international agreements or not? If the answer is yes, what works is the contract? To answer this question, "force majeure" should be analyzed and clear as the concept and nature of its content in different jurisdictions. Force majeure, it is an accident and inevitable so it is not attributable to commit and it is absolutely impossible to implement the commitment. This event is more than the normal issues but sanctions could be considered in this area or not? If we are to bring sanctions from the case of force majeure in this case, committed, will be exempt of the obligation or compensation other side. Force majeure is the oldest and most common excuses contract as it has been reviewed and accepted in different legal systems (of course, the names and different ways). In the legal

system "written" force majeure or Cairo branch, it should be unpredictable, addition of uncontrollable and external but the legal system, common Lasht unpredictable, is not it one of the pillars of force majeure. The approach of this study is to evaluate the inclusion of sanctions in case of force majeure as one of the excuses contract or the exclusion of other excuses in the form of a contract and its effect on the conclusion and implementation of contracts. This paper seeks to answer the key question is whether sanctions can be effective pillars of the contract and its authenticity it will invalidate provided or only has an impact on its implementation and it makes the termination and termination of the contract.

## **MATERIALS AND METHODS**

### **The effect of sanctions on international treaties**

### **The effects of a global treaty against legislature**

One has to humility and obedience to the Special Forces in traditional society where it comes from authority. These forces interact with humans, it is done from a superior position and these same forces determine its values and hierarchies. Rooted in traditional societies, criminal law, it is such a force. Laws are rooted in religion or they are

levied directly by the king and they are qualified to abrogate laws; but the will of the people in an organization called "parliament", which is a consequence of the formation of a modern state [1]. There is a will above the will of the law even MPs themselves and incur all the legal rights and obligations arising from the law are to enjoy the same; so, given the Parliament's main center of attention in the legislative criminal policy, criminal law is clear approval process in a period. Legislative acts compatibility with the principles and legislation must be accepted in each case. The legislature should provide the necessary measures to establish justice system architecture as skilled at counting, classifying, and adjusting the number and quality of crime in criminal law [2].

### **The effects of a global treaty against judiciary**

The conflict between a treaty and ordinary law, public behavior on the principle that civil judge, he tries to reconcile two major principles at a time when such encounters. These two principles are the primacy of international law and the rule of law. In all cases, the judge is the first attempt to reconcile the two principles of interpretation in many countries for a true rule so that it is sitting on seat because, as has been said, the law

can not generally puts foot on the treaty [3]. Internal judge primarily he is responsible on the basis of a binding international on the implementation of a treaty. This requirement arises from cooperating so that it is on the shoulders of the national government and is one of the pillars of the judge. On the other hand, the run usually takes place in the realm of public duty judge for the right word; because after the treaty entered into the internal order, it comes in a set of laws and legal regulations such as constitution, laws, regulations, contracts or unilateral acts so ensuring it is a natural duty judge. That is why the implementation of treaties adopted by local judges in some jurisdictions, such as France [4]. According to what was said, it seems that if the treaty is approved in accordance with internal regulations, all branches of government, including the judicial branch, they are required to implement its provisions and if a court does not pay attention to the provisions of an international treaty for example, it did not observe the immunity of foreign governments, international organizations or diplomatic representative in its ruling as the Iranian government officially accepted under an international treaty, it is doomed to invalidity ruling because the judge exceeded his legal authority.

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**The effects of a global treaty against the executive branch**

If we put the rule to the executive branch, it involves the institution of the presidency and the Council of Ministers and executive organs are placed so that in this row and if we consider the broad sense, it covers all the administrative levels and it includes various factors responsible for the enforcement across the country including governors and the entire technical and specialized organizations and even simple enforcement. Thus, anything that is located in the administrative hierarchy, political and administrative government by law of the country it is in the area of the judiciary. If we do not separate from the executive leadership positions and recognize this as a time to celebrate an important part of the administrative tasks undertaken so that it is at the head of the executive branch the importance of this branch and its authority will be further developed. Iran Historical records show that in the same ruling institutions formed before the constitutional power and the writ of the state in the international community, it has been known for with this branch. After the establishment of the Constitution, regardless of the short period that the legislature has the authority, basically, the executive branch

has been overshadowed by the other two and it has been entrusted with the exercise of sovereignty in any way because it has been officially serve all law enforcement agents from the political, administrative, police and military and this is not a special situation in Iran even as countries that have a democratic, on the issue of separation of powers, sometimes to the conclusion that what is true, it is a branch, executive authority pervades everywhere judicial and legislative affairs are part of the executive branch [5].

**Legal measures to combat international sanctions against Iran**

Unilateral sanctions measures America, Canada, England and other non-European countries, they were established by reference to the text and spirit of Security Council resolutions and thus should consider the overall sentence supremacy obligations security Council resolutions on the obligations arising from bilateral or multilateral government as stipulated in Articles 25 and 103 of the Charter. For example, the central bank can be said about sanctions, some have argued that the overall context of paragraph 21 of Resolution 1929 has explicitly or implicitly delegated such authority to the states. According to this clause, the government can stop providing any

financial services or subsidiaries by nationals or transfer of property on its territory so that it could contribute to Iran's nuclear program, according to their diagnosis; on the other hand a group suspected of sanctions imposed by America and Europe has gone beyond the limits of Security Council sanctions resolutions. The fundamental point about these sanctions, it is the lack of necessary and effective enforcement to prevent violations of international rules and standards, including human rights. It seems that, in addition to the Security Council that its search results are not predictable in terms of its political nature, to go to other legal remedies to judicial review it can be used including the capacity of bilateral agreements on investment encouragement and protection of the friendship treaty between Iran and America or statements Algeria and etc. [6]. Evaluation of existing capacity for judicial review of sanctions imposed on Iran, it not only as an attempt to find ways to circumvent sanctions but it has some positive effect; first, the legal and judicial measures are a strong indication of the interest and commitment of government attempts to legal regulations and the rule of law in international relations and certainly the government is to ensure the legitimacy of its actions, not

afraid of going to court to discuss their differences with others.

In some legal capacity, the possibility of an injunction prohibiting the imposition of sanctions foreseen in specific areas thus, even though judicial procedures are usually long and do not result in short-term but success in obtaining interim measures from the handler, it can be prevented to impose sanctions against government spending and more pressure as a result of the sanctions [6]. Finally, it must be said, in the wake of legal action for judicial review of sanctions that are being imposed, provides context to arouse international public opinion and stimulating thinkers in various fields as a result there would be more than rationality restrictive measures in state practice. It must be remembered that sometimes resorting to legal initiatives can have effects on other political and non-legal capacity for example, it leads to expedite the process of negotiations. On the surface, take legal action against a state but it will quickly be consequential effects on the behavior and policies of other countries to limit their circle of sanctions [7]. Because the state's interests in expanding trade relations, governments are trying to remove barriers to promote trade relations between as much as possible.

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**Civil liability lawsuits against foreign governments in domestic courts**

In addition to regional and international legal mechanisms limiting judicial review of decisions taken can be considered competent legal capacity judiciary of the Islamic Republic of Iran to handle civil cases foreign governments approved amendments adopted in 1999 and 2012. Although critical remarks is available on the status and implementation of the law of the author as of this time, there is a venue to discuss these points for the inability to identify and implement judicial decisions issued in other countries, adjusted illegal work rules imposed by America executive immunity and Iran in breach of its domestic courts and lack of practical benefit and balance the benefits and costs of political and non-political so that there is in the enactment of this Act compared with US laws. Single Act approved in 1999 for the rights of Iranian citizens, which provides that in place that allow reciprocity victims of a violation of the immunity of foreign governments they cannot bring a lawsuit against the government in Tehran courts. We have jurisdiction pursuant to Article 4 of the executive Regulations of the Islamic Republic of Iran's judiciary, they have been placed on the list of countries subject to the law civil lawsuits

against foreign governments adopted in 1999 to address the United States and Argentina [8]. Amendment 2000 to predict and assess the damage the material, spiritual and even punishment is considered similar to foreign courts. The 2011 amendment stipulates that damage caused by the harmful actions of international law, foreign governments whether it be realized inside Iran or outside, it is a matter of law. Encouraging and supporting foreign government entities as well as terrorist activities also in the realm of the law. This amendment is important it also stipulates that both natural persons and legal entities can appeal to these claims and secondly eliminated Iranian reiterated the call for the law and in accordance with Article 6, the disposal of Iranian nationals were among the injured or for any survivors at the time of the incident damaged or has been employed by the government in the event of damage it can benefit from this privilege.

**Verify the legitimacy of the Europe Union from the perspective of general rules of international law**

To refer the Iranian nuclear dossier to the Security Council, the institution has passed numerous resolutions against Iran so far. The resolutions were issued on the basis of Chapter VII and various

economic sanctions imposed against individuals and entities linked to intelligently with Iran's nuclear program. America and Britain's efforts to expand sanctions against Iran, especially in the oil and gas business entities in the Security Council but they were opposed by applying this type of sanctions because commercial dealings with Iran in some permanent members of the Security Council in the field of energy, such as China. Hence, these countries decided to press on Europe and forced the international organization to impose sanctions against Iran's energy and especially oil embargo. ARPA Union has imposed oil embargo on Iran to implement Security Council Resolution 1929 and the introduction of the resolution; it has been cited as the legal basis for its sanctions [9].

### **Europe Union action in violation of Security Council resolutions**

In resolutions 1747, 1737 and 1929, banned trade with Iran only in materials, equipment, goods and technologies that could contribute to uranium enrichment. On the other hand, in the resolution, it will be the only countries to freeze the assets of certain entities as well as individuals associated with Iran's nuclear program. This means that the Security Council sanctions against Iran, they are

smart and sanctions in the Security Council resolutions, it is not aimed at commercial activities with Iran especially the purchase of oil from the country widely and comprehensively, and do not speak of the oil embargo in the original text of Security Council resolutions and countries not bound to the oil embargo of the country. Of course, due to the lack of debate and the views of some members before the adoption of Security Council resolutions, commitment of the members of the Security Council, it was not carried out comprehensive economic sanctions for countries that had economic and trade relationship with Iran, and Security Council resolutions also does not stipulate such an issue. The objective of smart sanctions, that oppress Iran and the Security Council imposed comprehensive economic sanctions on Iran yet.

As a result, the government of Iran and the other countries and their nationals are free to establish trade relations with Iran. On the other hand, Europe is by no means can hold the oil embargo of Iran as the legal basis Introduction Security Council Resolution 1929, since the introduction of the resolution, in no way is not mentioned explicitly ban Iranian oil purchases. On the other hand, the validity and legal effect of the introduction of Security Council resolutions; it is different from

the text of the resolution and no binding power. Introduction Security Council resolutions, it is used only element to interpret resolutions and it involves a decision binding for members of the international community but binding decisions of the Security Council to the international community, referred to only in the original Treaty nor its introduction. The legal basis for measures against target countries and other members of the international community, it is not an introduction to its original resolution.

## RESULTS AND DISCUSSION

Sanctions are used as a means of pursuing long be they public or private, as well as a threat to or breach of peace enforcement in order to force governments to change their behavior. Private boycott organized by private individuals and groups, and national, they are rarely in the wake of the government's international responsibility and the legitimacy of such sanctions has not been called into question. Government sanctions often been used by powerful countries as an instrument of foreign policy. The purpose of these sanctions, it is to force the government to change the behavior of foreign policy goal. Therefore, these sanctions are not only economic goals but also to achieve its political objectives, social or military

sanctions on the country programs and incentives. Government sanctions may only be restored to the state target or to expand the scope of inclusion and include relevant countries with the aim of commercial or financial relations. Although in the past this type of boycott was deemed inadmissible by virtue of the principle of the sovereignty of nations, but today, the principle of non-interference in the internal affairs of other countries, the right to development and international sanctions imposed by countries against other countries based on the pillars of contemporary international law, including United Nations resolutions, particularly the secondary boycott, it is not illegal and questioned its legitimacy. But with regard to the legitimacy of international law in resorting to countermeasures against countries that violate international law with a series of conditions, countries can make use of sanctions as countermeasures.

In total, the meaning of Security Council resolutions, especially Resolution 1929, it is clear and there is no need to interpret this resolution. The Security Council or the Sanctions Committee so that it can legally has the right to decide whether what should be sanctioned individuals and entities Security Council. Countries

and international organizations have no right to interpret these resolutions are broad and arbitrary. Interpretation of Security Council resolutions should be narrow and in good faith and within the framework of Security Council sanctions regimes and Article 31 of the Convention on the Law of Treaties.

Non-coercive action individually and collectively countries in Europe, it is illegal and in violation of the UN Charter and in violation of the provisions of the Europe Union beyond what is contained in Security Council resolutions. They can not rely on a broad interpretation of these resolutions interpreted as effectively and efficiently, the pressure to change political behavior and stop Iran's nuclear activities. It must be acquired from these countries, the authority to interpret those resolutions for unlimited authority of the Security Council itself have damaged the credibility of international law to date by giving such authority to countries and international organizations and discredit the international law will be doubled.

Unfortunately, to date, measures taken unilaterally countries and international organizations beyond the measures the Security Council, gradually it has become an international precedent there is a danger in the future and that countries act outside the Security Council for any

situation as it is the linchpin of the United Nations and the primary responsibility for maintaining international peace and security, and violated international law and the UN Charter and political and economic sanctions unfairly targeted as threats. Most of the measures taken countries and international organizations in the implementation of Security Council resolutions it is beyond Council resolutions or that the Security Council has been entered, but no sanctions imposed on it not against it and these countries have imposed sanctions against the country arbitrarily and has continued even after the arrival of the Security Council and there is no objection to these measures. International efforts to work jointly to achieve international peace and security, it will be very slow to do illegal acts and leads to the failure of the international community to achieve this goal. Charter esteem as the great achievement of international cooperation after the two world wars, it must be enshrined as a basic document and safeguarding international peace and security.

Hence it is better that the Security Council refer the ban took countermeasures unilaterally from countries and organizations beyond the resolutions of the Security Council in its

resolutions when you enter into a subject matter and prohibit them from doing these countermeasures. America's unilateral actions on Iran, it violates the principle of peaceful coexistence among states so it is necessary to respect the fundamental principles of international law, the legal equality of states, non-interference, cooperation and friendship, respect for sovereignty and territorial integrity of states among members of the international community. This kind of arrangement, it is inadmissible due to lack of international legitimacy. For this reason, should receive special attention on aspects such as legality, necessity and proportionality, as well as the impact of the sanctions on innocent civilians in the process of international sanctions.

Link considerations and moral values or ideas of international law enforcement through sanctions and effective monitoring of the use of economic sanctions, it is an essential issue. The current international system, it requires mutual respect and courtesy to cooperation between governments due to the absence of a global authority and supervision of national governments. Because propriety is based on the concept of equality countries, due to its observance will contribute substantially to the development and maintenance of

friendly relations between states. D'Amato is not reasonable because of the extraterritorial application of the law to foreign companies that do business with Iran, it can be argued that an unfriendly act and a violation of the principles and rules of international courtesy. These penalties should not be imposed unilaterally. The international community should seek to provide a common framework for a global system of penalties applicable to common goals. In this regard, Chapter VII is predicted in this regard, as an effective mechanism. The task of implementing the decisions of the Security Council is reflected in paragraph 1 of Article 24 of the Charter as whereby members of the organization are assigned the responsibility of maintaining international peace and security to the Security Council in order to ensure prompt and effective action and they agreed that the Council acts on their behalf.

Without a doubt, America is contrary unilateral sanctions by ensuring peace and global security, social solidarity Nations, recognition of the right to freely determine fate and non-use of force in international relations in the light of the Charter of the United Nations. It is also inconsistent with just and equitable in terms of international cooperation on

both sides. In response to the question, what is the legal nature of the sanctions? It must be said that sanctions take place in the form of mutual legal acts that is a deal done between the countries and national and international institutions the framework and related sanctions. So if we want to examine the legal nature of the sanctions, it is an act of mutual legal. But since the embargo not only a political description it should be added that the legal description due to the nature of international law. From this perspective, the embargo is not merely a legal practice and legal nature and must also spoke of political description. In the case of a legal system and political sanctions, should be investigated various effects of sanctions. From this perspective, the political effects of the sanctions, such as sanctions to isolate the country. The economic impact of such sanctions could lead to isolation and exclusion of international trade.

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