

CHAPTER 6

Secondary Sanctions and the Fragmentation of International Law: Sovereignty, Supply Chains, and the Rise of Economic Coercion

S. P. Tejeshwar Thampi and Harshith Sai B



in *Law in Transition: Rights, Sovereignty and Regulation in a Changing World*, edited by Siddharth Saxena and Bhagyashree Agarwal (VidhiAagaz 2026), pp. 61–73

DOI <https://doi.org/10.63108/VAB.LIT.1.6>

CITATIONS

BLUEBOOK (21ST ED.)

S. P. Tejeshwar Thampi & Harshith Sai B, *Secondary Sanctions and the Fragmentation of International Law: Sovereignty, Supply Chains, and the Rise of Economic Coercion*, in *LAW IN TRANSITION: RIGHTS, SOVEREIGNTY AND REGULATION IN A CHANGING WORLD* 61 (Siddharth Saxena & Bhagyashree Agarwal eds., VidhiAagaz 2026).

OSCOLA (4TH ED.)

S. P. Tejeshwar Thampi and Harshith Sai B, ‘Secondary Sanctions and the Fragmentation of International Law: Sovereignty, Supply Chains, and the Rise of Economic Coercion’ in Siddharth Saxena and Bhagyashree Agarwal (eds), *Law in Transition: Rights, Sovereignty and Regulation in a Changing World* (VidhiAagaz 2026) 61.

CHICAGO (17TH ED.)

Thampi, S. P. Tejeshwar, and Harshith Sai B. “Secondary Sanctions and the Fragmentation of International Law: Sovereignty, Supply Chains, and the Rise of Economic Coercion.” In *Law in Transition: Rights, Sovereignty and Regulation in a Changing World*, edited by Siddharth Saxena and Bhagyashree Agarwal, 61–73. Maihar: VidhiAagaz, 2026. <https://doi.org/10.63108/VAB.LIT.1.6>.

APA (7TH ED.)

Thampi, S. P. T., & Sai, H. B. (2026). Secondary sanctions and the fragmentation of international law: Sovereignty, supply chains, and the rise of economic coercion. In S. Saxena & B. Agarwal (Eds.), *Law in transition: Rights, sovereignty and regulation in a changing world* (pp. 61–73). VidhiAagaz. <https://doi.org/10.63108/VAB.LIT.1.6>

SOURCE

<https://doi.org/10.63108/VAB.LIT.1.6>

LICENCE

Open access under the Creative Commons Attribution-NonCommercial 4.0 International Licence (CC BY-NC 4.0): it may be copied, shared and adapted for non-commercial purposes, with credit to the authors and the source.

Citations are given as a guide; check them against the style manual you follow. This page was added by VidhiAagaz to the downloaded file. The chapter follows, with the page numbers of the printed book.

CHAPTER 6

Secondary Sanctions and the Fragmentation of International Law: Sovereignty, Supply Chains, and the Rise of Economic Coercion

S. P. TEJESHWAR THAMPI* AND HARSHITH SAI B**

In contemporary geopolitics it is evident that secondary sanctions act as a primary tool to exert influence beyond one's territorial jurisdiction. These sanctions are usually used by powerful countries such as the USA to exert their influence on third party countries by restricting their trade with other countries with primary sanctions. Though usually such actions are defended as "actions taken in the interest of national security", these sanctions are used to force a State's will upon others and thereby it bypasses the multilateral institutions present in the international legal system.

Existing scholarship focuses primarily on the legality of secondary sanctions under international law, with respect to principles of sovereignty and non-intervention. However, this paper will focus on the recent developments such as the Russia-Ukraine conflict and the instability in the Middle East as these have created a need for a wider and more integrated analysis.

This paper argues that secondary sanctions are reshaping international legal order, global trade and supply chains. The paper will first examine the tension between extraterritorial jurisdiction and state sovereignty under international law. It will also study the impact of secondary sanctions on global supply chains and their role in 'de-risking' and trade realignment. Further the paper will analyse the rise of countermeasures such as anti-sanctions law and blocking statutes, which indicate increasing fragmentation of legal norms across jurisdictions.

Thus, this paper moves beyond the traditional legality debate and highlights the limited capacity of international law to regulate economic coercion in an increasingly multipolar world. This paper will employ a doctrinal method of research which will include the use of both primary sources such as international charters and secondary sources like journal articles.

Keywords: Secondary sanctions, Supply chains, Coercion, De-risking.

* Student at Tamil Nadu National Law University, Tiruchirappalli, Tamil Nadu, India.

** Student at Tamil Nadu National Law University, Tiruchirappalli, Tamil Nadu, India.

1 INTRODUCTION

It is a common occurrence in the contemporary world for states or rather their leaders and officials to violate the fundamental rights of both their compatriots and outsiders through blatantly abrasive policies or actions. For instance, in 2022, Russia violated the sovereignty and territorial integrity of Ukraine by conducting a full-scale military invasion to expand its control. Such actions on an international level often attract opposition from other countries in the form of “sanctions”.¹ It is pertinent to understand that in modern international relations, States no longer exert influence on one another solely through military force, as economic instruments like sanctions are increasingly being utilised among the States to control the behaviour of each other.²

The use of such economic instruments is not a point of conflict, but the extent to which states now deploy such sanctions to govern the conduct of other states is contentious. Initially, states prominently employed only primary sanctions against a specific state. “Primary sanctions” refer to direct economic restrictions, such as trade embargoes or financial restrictions like blocking foreign assets or assistance, imposed on its own citizens to prohibit transactions with a targeted foreign state.³ But soon enough, states started to exert extra pressure on the target state through the use of secondary sanctions. It is often used as a tool to strengthen primary sanctions and involves penalising third-party countries that engage in economic relations with countries with primary sanctions⁴.

It is the nature of secondary sanctions to reach beyond territorial boundaries to coerce third-party States into compliance with the demands of another state’s foreign policy. It is this nature that creates a tension in the realm of international law.⁵ The USA is one of the most prominent countries that utilises these secondary sanctions to a large extent in the modern world. Making use of its central position in the global economy, it has forced foreign states to choose between halting trade with USA’s sanction targets or forfeiting access to the lucrative US market.⁶ Recently the USA increased the imposition of its secondary sanctions targeting foreign entities aiding Russia, Iran and North Korea. For example, the

¹ Dana Mohammed Danish Aladdin Sajadi, *The Russia-Ukraine War: Causes, Consequences and Solutions*, 5 EJMS 28, 29 (2024).

² Jeffrey A. Meyer, *Second Thoughts on Secondary Sanctions*, 30 U. PA. J. INT’L L. 905, 906–09 (2009).

³ Sarah Krulikowski, *Economic Sanctions: An Overview* (U.S. Int’l Trade Comm’n 2024).

⁴ Tom Ruys & Cedric Ryngaert, *Secondary Sanctions: A Weapon Out of Control? The International Legality of, and European Responses to, US Secondary Sanctions*, BRIT. Y.B. INT’L L. (2020).

⁵ Daniel Meagher, *Caught in the Economic Crosshairs: Secondary Sanctions and the American Sanctions Regime*, 89 FORDHAM L. REV. 1000, 1000–10 (2020).

⁶ Ruys & Ryngaert, *supra* note 4.

USA tightened secondary sanctions to pressure foreign firms from aiding Russia's war effort on Ukraine, specifically through oil transactions with firms like Rosneft and Lukoil.⁷

It is important to understand that traditionally, international law has grounded itself upon the principles of sovereignty, territorial jurisdiction and non-intervention. Secondary sanctions break the tradition of a State's power generally being confined to its territorial boundaries and allow the State to regulate the conduct of foreign entities with no direct territorial or jurisdictional link to the sanctioning State. While the existing scholarship primarily focuses on the legality of such sanctions, this approach remains limited in addressing their broader systemic impact.

This paper will hence work towards understanding the manner in which secondary sanctions actively reshape global trade and supply chains. Their influence on corporate behaviour, compelling economic 'de-risking' and contribution to realignment of international commerce will also be studied. An analysis on the emergence of countermeasures such as blocking statutes and anti-sanctions laws and their contribution to increasing fragmentation of legal norms across jurisdictions will also be studied. The paper argues that the growing use of secondary sanctions reflects a shift from a rule-based system of governance towards a more fragmented, power-driven framework and hence raises concerns about the legitimacy, coherence and trajectory of international law.

2 LEGAL FOUNDATIONS AND THE LIMITS OF INTERNATIONAL LAW

2.1 Understanding Secondary Sanctions

The use of economic sanctions as an instrument of political policy dates back several years, and they were traditionally used as "primary sanctions". Specifically, primary sanctions are the prohibitions on any kind of economic relations with the targeted regime for citizens and entities within the sanctioning country.⁸ Thus, the United States prohibits its citizens and corporations incorporated in the US from dealing economically with countries such as Iran and Cuba.⁹

Nonetheless, with changing times, the number of "secondary sanctions" has been increasing because of the globalization of trade. In contrast to primary sanctions, secondary sanctions are targeted at third-party countries and actors.¹⁰ Specifically, secondary sanctions

⁷ Amitabh Singh, *India's Tryst with Secondary Sanctions*, OBSERVER RSCH. FOUND. (July 30, 2025), <https://www.orfonline.org/expert-speak/india-s-tryst-with-secondary-sanctions>.

⁸ Meagher, *supra* note 5, at 1004.

⁹ Cecile Fabre, *Secondary Economic Sanctions*, 69 CURRENT LEGAL PROBS. 259, 261 (2016).

¹⁰ Ruys & Ryngaert, *supra* note 4, at 7.

are meant to prevent non-nationals and foreigners from having any dealings with or support of the regime that is subject to the primary sanctions.¹¹

Secondary sanctions are built on the idea of using the centrality of the sanctioning state in the world economy. Namely, secondary sanctions present a coercive option to neutral and third-party actors. This allows them to either stop dealing with the targeted state and avoid economic sanctions or proceed with economic transactions with the state under sanctions and suffer the dire consequences.¹² What makes the definition of secondary sanctions distinctive and what sets them apart from primary sanctions is that they impact third-party actors. Therefore, secondary sanctions weaponise global chokepoints in order to increase the pressure on the target country through the compliance of third parties who are forced to stop their relations with the targeted nation.¹³

2.2 Jurisdiction in International Law

The aggressive expansion of secondary sanctions creates serious questions regarding prescriptive jurisdiction, which can be defined as a state's competence to impose its law on particular actors or activities. According to customary international law, there exist two fundamental principles of jurisdictional power: territoriality and nationality. Specifically, the territoriality principle assumes that any country has the right to regulate the actions committed within its territory, while the principle of nationality grants a sovereign to rule over its nationals' actions regardless of the territory where the latter are committed.¹⁴

However, secondary sanctions are an attempt by the sanctioning countries to exert regulatory control over third-party nationals whose actions occur outside of the territory of the sanctioning state. In order to justify the extraterritorial reach of the legislation, sanctioning countries usually invoke the "effects doctrine".¹⁵ According to this doctrine, a country can extend the scope of its legal jurisdiction to extraterritorial conduct that is intended to and actually produces substantial effects within the country.¹⁶

The effects doctrine plays a vital role in explaining the extraterritoriality of laws and their legal bases. However, applying this doctrine in the context of secondary sanctions raises controversy. One can easily argue that the "effects" that a third-party company produces when trading with a sanctioned regime are too remote and weak to be viewed as a

¹¹ Meyer, *supra* note 2, at 906.

¹² Ruys & Ryngaert, *supra* note 4, at 1.

¹³ Dongan Tan, *The Decoupling Dilemma: How US Sanctions Erode Global Economic Governance*, 79 INT'L ORG. S134, S136 (2025).

¹⁴ Fabre, *supra* note 9, at 273–77.

¹⁵ Tobias Stoll et al., *Extraterritorial Sanctions on Trade and Investments and European Responses* 1, 53 (Eur. Parliament, PE 653.618, 2020).

¹⁶ *Id.*

substantial effect within the territory of the sanctioning country.¹⁷ For example, selling automotive parts to Iran by a company from one of the European countries does not threaten the territory of the United States in any way. Moreover, claiming that transactions which go through correspondent U.S. banks should be considered as an “exportation of services” is highly controversial and does not create a substantial link to the territory of the sanctioning country.¹⁸

2.3 Sovereignty and Non-Intervention

The use of extraterritorial jurisdiction inevitably conflicts with the most fundamental international principles of state sovereignty and non-intervention. Non-intervention means that every sovereign country enjoys the freedom to conduct itself both domestically and internationally, free from external pressure. In other words, the “domaine réservé”, as described by the International Court of Justice, guarantees that the sovereign country will enjoy full freedom of deciding its foreign policies, economic system, and international trading partners.¹⁹

However, imposing sanctions on foreign countries violates this fundamental principle. Sanctions put tremendous pressure on foreign governments and companies to give up their legitimate economic practices, because of the severe consequences that will follow if they do not comply. Thus, imposing secondary sanctions on countries is equal to forcing them to submit their sovereign rights and to adapt to the foreign policies of the sanctioning state.

2.4 The Legality Debate

The debate on the legality of secondary sanctions tends to be rather polarized and revolves around putting up national interests against the sovereignty of the international community. Supporters of secondary sanctions usually try to evade discussions on the effects doctrine altogether and view the imposition of sanctions as a condition of entering the domestic market. Accordingly, proponents of this practice believe that, unless bound by particular treaty obligations or rules of international law, States are free to determine the conditions for access to their domestic markets.

Advocates claim that apart from any international obligation in treaties, the sovereign right of the country is total freedom to deny access by other countries to their territory, financial institution, and currency. Therefore, it would be incorrect to call the secondary

¹⁷ Meyer, *supra* note 2, at 941.

¹⁸ Ruys & Ryngaert, *supra* note 4, at 21.

¹⁹ Marko Milanovic, *Revisiting Coercion as an Element of Prohibited Intervention in International Law*, 117 AM. J. INT'L L. 601, 622 (2023).

sanctions as ‘a violation of extraterritoriality’ because they represent only an attempt to deny some economic benefits to those who violate the interests of a country.

Arguments against secondary sanctions emphasise the extraterritorial nature of the practice, which is an abuse of rights. There is widespread criticism among the international community including the UN General Assembly and EU, which declares these practices as illegal because they involve illegitimate interference into the economic affairs of neutrals. As a consequence, the regions like the EU adopt blocking statutes prohibiting their companies from compliance with the sanctions.

Nevertheless, the main issue here is the absence of explicit prohibition on the imposition of secondary sanctions regardless of the numerous criticisms against this practice. Moreover, it cannot be claimed that there exists a strong legal regime in international law with effective enforcement tools. For example, no dispute settlement body like WTO or ICJ made a clear decision regarding invalidity of the secondary sanctions. Apart from this, the national security clause serves as a justification tool for sanctioning countries.

3 SECONDARY SANCTIONS AND THE RESTRUCTURING OF GLOBAL TRADE

3.1 Expansion of Sanctions in Contemporary Geopolitics

It is a fact that in the 21st century sanctions are no longer marginal diplomatic tools but central mechanisms which are utilised by states to pursue their geopolitical objectives, reshape alliances and change an adversary’s strategic capacity.²⁰ The concept of secondary sanctions only started developing around the 1990s with the collapse of the Soviet Union. As a consequence of their collapse, there was rapid market integration and the US dollar consolidated itself as the primary reserve currency, thus allowing the USA to occupy a central position in the global economy.²¹ Following this the Iran Sanctions Act (ISA) and the Helms-Burton Act, which targeted Cuba, were enacted and thus modern secondary sanctions were formally introduced.²² These acts punished firms from third-party countries that invested in the energy sectors of countries with primary sanctions.

Following this in the 21st century there was increased normalisation of secondary sanctions and its usage was expanded. Although following the post-cold war era, several international trade agreements like Trans-Pacific Partnership (TPP), World Trade Organization (WTO), etc., were signed with an aim to establish a rule-based commerce system, the last decade has seen a distinct pivot towards secondary sanctions that leverage global economic

²⁰ Ajay Kumar Godara, *Economic Sanctions as Geopolitical Weapons: Structural Power, Intermediary States, and the Fragmentation of Global Economic Order*, 8 IJPSG 204, 205–07 (2026).

²¹ *Id.*

²² *Id.*

chokepoints.²³ In 2018, the re-imposition of US sanctions on Iran, following the unilateral withdrawal from the Joint Comprehensive Plan of Action (JCPOA), marked the normalization of secondary sanctions as a tool of ultimate pressure.²⁴ The JCPOA was initiated to restrict Iran's nuclear program by capping their uranium enrichment in exchange for lifting international sanctions. The withdrawal was justified by stating that the agreement was defective and one-sided. Then in 2018 the USA imposed secondary sanctions on Iran to pressurize them into negotiating a new agreement.²⁵

Furthermore, in 2022, the escalation in the scale of utilization of this tool can be observed from the sanctions imposed by a USA-led coalition against Russia, condemning its hostile invasion of Ukraine. Unlike previous sanctions that usually aimed at smaller economies, the campaign against Russia targeted a major economy that involved the G20 countries and which was also well integrated into the global markets.²⁶ The coalition cut off Russian banks from the SWIFT messaging system, which allowed banks around the world to receive information about financial transactions, and also froze Russian Central Bank's foreign reserves. The USA imposed thousands of sanctions on Russia making it the world's most sanctioned nation and as early as 2024, the US has targeted over 16,000 entities and individuals aimed at disabling Russia's war machine and economy.²⁷ Such usage of secondary sanctions shows that they are no longer just an alternative to military force but have become a permanent feature of global economic governance.

3.2 Corporate Compliance and Economic Pressure

It can be understood from the above established arguments that secondary sanctions function through a mechanism of structured coercion. These sanctions do not explicitly prevent foreign firms from trading with the sanctioned entities but rather impose consequences such as exclusion from US correspondent banking, forfeiture of assets or debarment from US procurement which make continued engagement commercially untenable.²⁸ The USA is effective at imposing secondary sanctions due to the dominance of the US dollar, as almost half the cross-border banking transactions are denominated in dollars and this asymmetry clearly explains why European and Asian financial institutions consistently comply with

²³ POLICY DEP'T, DIRECTORATE-GENERAL FOR EXTERNAL POLICIES, EUR. UNION, EXTRATERRITORIAL SANCTIONS ON TRADE AND INVESTMENTS AND EUROPEAN RESPONSES (2020).

²⁴ *Id.*

²⁵ *Id.*

²⁶ Tan, *supra* note 13, at S135.

²⁷ Aleksei Zakharov, *Charting US Sanctions on Russia: Retrospect and Road Ahead*, OBSERVER RSCH. FOUND. (Aug. 1, 2025), <https://www.orfonline.org/expert-speak/charting-us-sanctions-on-russia-retrospect-and-road-ahead>.

²⁸ Ruys & Ryngaert, *supra* note 4, at 3.

US's secondary sanctions even when their own government objects to them as violations of sovereignty.²⁹

Secondary sanctions also produce a 'chilling effect' on foreign firms as they pre-emptively withdraw from markets and relationships that could possibly create exposure to sanctions risk, even where no explicit prohibition applies. For instance, from the fear of being caught in the crosshairs of the US Office of Foreign Assets Control (OFAC), banks often terminate services for clients in 'sanction risk' jurisdictions, even when those activities are not legally prohibited by their own domestic governments.³⁰

This type of behaviour effectively subordinates the foreign policy choices of sovereign states like the EU Member States to the security preferences of the sanctioning hegemon. As companies give more importance to US dollar liquidity over their own national trade policies, the sovereignty of third-party states is eroded by a "hidden coercion" that operates through private actors rather than diplomatic channels.

3.3 De-Risking and Supply Chain Realignment

The complementary risks that are associated with the imposition of unilateral secondary sanctions and economic coercion necessitate a defensive strategy known as 'de-risking'. It refers to the "proactive withdrawal or restriction of financial services by banks and firms from entire regions or sectors to avoid potential violations of extraterritorial sanctions."³¹ It essentially realigns the trade flows away from jurisdictions perceived as sanctionable. In the contemporary world the widespread adoption of de-risking strategies has led to a "decoupling dilemma" where, as each country seeks to insulate its economy for security reasons, a global integrated system becomes less attractive.

The expansive use of economic sanctions by powerful states accelerates the erosion of the liberal economic order and also can lead to what many scholars term as the 'fragmentation doom loop'.³² It refers to a situation at the global level where the dilemma triggers a cycle where, as each country breaks away from an integrated system to ensure economic security, the system itself becomes less attractive to all other participants, increasing their incentives to break away from the global integrated supply chains. While decoupling implies a complete exit, de-risking involves identifying and mitigating vulnerabilities. A common strategy adopted by countries to diversify their supply chains includes China+1 or Russia+1 strategies where companies maintain an essential presence in sanctioned countries like

²⁹ *Id.*

³⁰ *Id.*

³¹ Tan, *supra* note 13.

³² Christopher Clayton, *A Theory of Economic Coercion and Fragmentation* 1, 1–8 (NBER 2025).

Russia while also establishing a secondary, parallel hub in another country.³³ Applying such strategies allows the states to realign supply chains and alter the global financial architecture.

3.4 Impact on Developing Economies

It is pertinent to understand that while major powers can afford to build alternative infrastructures to facilitate trade, developing economies face a heavy burden under the current trade regime dominated by sanctions. In most cases, sanctions often lead to a sharp decrease in economic activity with reports highlighting an average drop of 3.0 to 4.3% in GDP growth rates of the target country.³⁴ For instance in 2015, the withdrawal of Merchants Bank of California in Somalia from remittance services affected 80% of the remittances sent from the USA which greatly affected the GDP of Somalia since remittances contributed significantly to the GDP.

These secondary sanctions also create a form of ‘hidden coercion’ where developing states are themselves not the targets of sanctions, but they still bear the structural costs of compliance architecture designed to serve the foreign policy objectives of powerful states. Even those developing nations that maintain a neutral position in geopolitical conflicts cannot escape from pressure exerted by secondary sanctions. For instance, Turkey faced intense pressure from the USA to curb its ongoing financial and trade transactions with Russia in 2024, despite being a NATO member state with sovereign entitlement to determine its own commercial relationships.³⁵

The erosion of such trade autonomy for developing economies has a significant effect as it can result in significant welfare losses and increased poverty. The employment of such sanctions and pressure violates the principle of non-intervention in the *domaine réservé*. *Domaine réservé* refers to the sovereign affairs that a state can decide freely. However, when a powerful state forces a third-party state to align with its internal trade laws, it undermines the sovereign equality of states.³⁶

³³ *Id.*

³⁴ Stoll et al., *supra* note 15.

³⁵ Ozgur Ozkan, *Turkey Faces Competing Pressures from Russia and the West to End Its ‘Middleman Strategy’ and Pick a Side on the War in Ukraine*, CONVERSATION (Oct. 26, 2023), <https://theconversation.com/turkey-faces-competing-pressures-from-russia-and-the-west-to-end-its-middleman-strategy-and-pick-a-side-on-the-war-in-ukraine-215134>.

³⁶ Majid Azarnush, *Secondary Sanctions from the Perspective of International Law*, 9 IJSR 183, 183–88 (2020).

4 FRAGMENTATION OF INTERNATIONAL LEGAL ORDER

4.1 Emergence of Countermeasures

The weaponisation of international trade flows via the imposition of secondary sanctions has not been left unchallenged. While the United States has used its centrality in international economic relations in a forceful way, other targeted and third-party countries have reacted by constructing their own protective legal structures. This has led to the creation of an actual legislative arms race that fractured international law.

Specifically, the EU revived the Blocking Statute (Council Regulation 2271/96)³⁷ in response to the United States' exit from the JCPOA and activation of the Helms-Burton Act.³⁸ Through the blocking statute, the EU aims to mitigate the effects of secondary sanctions in two major ways.³⁹ First, it prohibits EU companies from conforming to designated foreign sanctions. Second, it grants a "clawback" right for European companies to reclaim damages incurred through the enforcement of secondary sanctions.⁴⁰

Similarly, China has moved beyond the diplomatic opposition to legislation. Mimicking the American model of extraterritoriality, Beijing issued the "Unreliable Entity List" and anti-sanctions laws to deter foreign companies that comply with secondary sanctions and stop normal business with Chinese firms.⁴¹ In conjunction with the expansive National Security Law, which itself asserts extraterritorial jurisdiction, these measures show how the explosion of secondary sanctions results in defensive measures that fragment the uniform enforcement of international trade regulations.

4.2 Conflict of Laws and Legal Uncertainty

The multiplication of legal imperatives has resulted in a fundamental conflict of laws, leaving multinational companies caught in the crossfire of jurisdictions.⁴² An EU entity conducting business with a sanctioned country, such as Iran or Cuba, finds itself in a dilemma: to comply with the secondary sanctions of the United States is to be safe from the wrath of the OFAC, but at the same time, it is to violate the EU Blocking Statute.⁴³

³⁷ Council Regulation 2271/96, 1996 O.J. (L 309) 1 (EC).

³⁸ Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, 22 U.S.C. §§ 6021–6091 (2018).

³⁹ Ruys & Ryngaert, *supra* note 4, at 81.

⁴⁰ *Id.* at 81–82.

⁴¹ Archived at <https://web.archive.org/web/20241008001740/http://english.mofcom.gov.cn/article/policy-release/questions/202009/20200903002580.shtml>.

⁴² Ruys & Ryngaert, *supra* note 4, at 86–87.

⁴³ Meyer, *supra* note 2, at 1014–15.

Indeed, the conflict of laws in practice has created a culture of overcompliance and “de-risking.” For fear of colossal penalties – BNP Paribas alone paid an \$8.9 billion fine⁴⁴ – European companies are known to forsake legitimate investment opportunities out of necessity. Even when the national courts issue rulings that uphold the blocking statute (such as the Dutch court case where the Exact company was compelled to fulfil a contract with Cuba, despite its apprehension over the consequences of the Helms-Burton Act), it leaves the company vulnerable to retaliatory actions by the United States.

4.3 The Erosion of Multilateralism

By engaging in secondary sanctions, the effectiveness of post-World War II multilateral systems is greatly threatened. With countries choosing to enforce unilateral sanctions instead of using multilateral mechanisms, institutions such as the World Trade Organization (WTO) experience severe erosion.⁴⁵ Before the proliferation of sanctions, trade issues were resolved within a rule-governed process through the dispute resolution of the WTO. However, in sanctioning countries, there is an increasing tendency to use national security as a reason to justify unilateral measures such as trade embargoes and boycotts.

Similarly, the increased unilateral approach weakens the role of the United Nations Security Council. Unable to agree on the implementation of effective multilateral sanctions due to veto deadlocks, dominant countries exploit the hegemony they hold over the critical choke points of international finance to unilaterally determine international trade relationships. As a result of this transition, the credibility of the multilateral approach deteriorates because the ability of each country to coerce others surpasses its ability to govern through rules.

4.4 From Legal Order to Geoeconomics

The use of secondary sanctions leads to a major shift in the functioning of the international order from a rule-based to a power-based system. Firstly, sovereignty is significantly undermined since the boundaries of domestic affairs (*domaine réservé*) are consistently pierced through economic coercion.⁴⁶ The concept of sovereignty fails when one nation coerces another neutral third party into changing its economic policies under the threat of financial ostracism.

Secondly, there is massive fragmentation of international law. States targeted by secondary sanctions and their economic allies develop a parallel economic structure to

⁴⁴ *Id.*

⁴⁵ Ruys & Ryngaert, *supra* note 4, at 71–72.

⁴⁶ *Id.*

withstand this pressure. Efforts such as creating payment mechanisms such as the Chinese Cross-Border Interbank Payment System (CIPS) or the European INSTEX initiative are made by targeted countries to circumvent the traditional network of global economic activity.⁴⁷ This leads to a phenomenon known as a “fragmentation doom loop”.⁴⁸ As countries engage in anti-coercion policy-making, the entire global economy breaks down into segregated competitive zones, losing all benefits of globalisation.

However, ultimately, it is power that takes precedence over the formality of law. The breakdown of the coherence of international law is not just an accidental malfunction, but a symptom of the political plurality and struggle of hegemony that exist. The breakdown of legal coherence leads to what is known in academia as “managerialism”.⁴⁹ Here, pure bargaining power and politics become far more influential than any uniform rules and procedures.

Therefore, secondary sanctions are not just short-term instruments for economic pressure, but long-term catalysts for change in international trade and the international division of labour, as they exploit economic interdependence as a political weapon. By doing so, they are directly contributing to the fragmentation of international law. They lead to a structural decoupling of the global economy that undermines legal certainty for the sake of geo-economic blackmail.

5 CONCLUSION

In summary, this paper has established that modern secondary sanctions have transcended their initial purpose of serving as a supporting tool of foreign policy. Rather, they now serve as highly effective means of economic coercion that project a state’s ability to regulate beyond its borders, posing fundamental challenges to the premises of international law. While there continues to be debate surrounding the legality of secondary sanctions, their continued proliferation due to the absence of an unequivocal legal prohibition indicates their use by dominant economies as a tool of enforcement.

From the doctrinal point of view, the use of secondary sanctions brings into light deficiencies in some traditional premises of international law, namely those concerning principles of jurisdiction, sovereignty, and non-intervention. Indeed, the justification of the application of secondary sanctions under the effects doctrine indicates the inconsistency between legal theory and practice in this area. In particular, by regulating foreign

⁴⁷ Tan, *supra* note 13, at S135.

⁴⁸ Christopher Clayton et al., *A Theory of Economic Coercion and Fragmentation* 1, 18–19 (Nat’l Bureau of Econ. Rsch., Working Paper No. 33309, 2025).

⁴⁹ Tomer Broude, *Keep Calm and Carry On: Martti Koskenniemi and the Fragmentation of International Law*, 27 TEMP. INT’L & COMP. L.J. 279, 291–92 (2013).

corporations with no connection to the territory of the state, secondary sanctions undermine state equality and the doctrine of “*domaine réservé*”.

Most significantly, however, the contemporary importance of secondary sanctions should be assessed primarily from the systemic point of view, rather than purely legally. Secondary sanctions represent a tool for regulating the behaviour of private parties, threatening them with being excluded from critical financial systems if their actions violate U.S. policy objectives. The “chilling effect” associated with secondary sanctions leads to trade reorientation by companies in question, which may prove detrimental to developing countries unable to sustain such shocks.

Thus, secondary sanctions can be perceived as means of an informally imposed global regulation that undermines multilateral institutions and rule-based international law. Furthermore, the proliferation of countermeasures, including the introduction of blocking statutes and anti-sanctions laws, represents another symptom of the current crisis in international law. It is accompanied by the erosion of existing legal frameworks, such as the World Trade Organization.

It can thus be said that secondary sanctions symbolize a shift from a rule-based international order towards one in which power asymmetries prevail. If this trend persists, the effectiveness of international law may be severely compromised.

* * *