

# Analysis of Categories and Effects of Countermeasures in International Law

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To safeguard national sovereignty and interests, as well as to protect the lawful rights and interests of entities within their jurisdiction from the adverse impact of sanctions, numerous countries and regions have enacted anti-sanctions legislation or adopted corresponding countermeasures. These measures aim to block and counteract the improper extraterritorial application of sanctions laws. In the realm of contemporary international law, such countermeasures are generally categorized into blocking measures and confrontational measures. Blocking measures are designed to neutralize or preclude the application and effects of foreign sanctions laws through domestic legal frameworks. In contrast, confrontational measures escalate the response by imposing reciprocal sanctions on foreign entities. This article primarily examines the blocking measures typified by the European Union (EU) and the confrontational measures exemplified by Russia, providing a detailed analysis of the implementation effectiveness and practical challenges associated with both categories. The efficacy of countermeasures is intrinsically linked to a nation's overall comprehensive strength. When devising anti-sanction strategies, it is imperative to align these measures with the nation's unique circumstances and diplomatic objectives. Striking an appropriate balance between the intensity and scope of blocking and confrontational measures is crucial to ensuring their effectiveness and achieving the intended policy outcomes.

*Keywords:* countermeasures, effects doctrine, blocking statutes, anti-sanctions

## Introduction

Amid a profound realignment in the global power structure, legal instruments have increasingly become pivotal tools in interstate competition. Western nations, notably the United States, frequently invoke justifications such as national security to impose sanctions and exert pressure on other states. Concurrently, efforts to shape a favorable international order through the extraterritorial application of domestic laws have intensified. This trend introduces significant challenges to the traditional framework of international law. The interplay between sanctions and anti-sanctions represents a dynamic process of containment and counter-containment, wherein legal frameworks and economic-diplomatic strategies serve as critical mechanisms for implementation. This intricate interaction underscores both the complexity of the international legal order and the fierce competition among national interests. This article examines two principal categories of countermeasures: the blocking measures exemplified by the European Union (EU) and the confrontational measures embodied by Russia. It offers an in-

depth analysis of their implementation, effectiveness, and the practical dilemmas faced in navigating the evolving landscape of international legal contestation.

## **The Concept and Typical Mode of Blocking Measures**

### **The Concept and Historical Evolution of Blocking Statutes**

The enactment of domestic legislation by a state to assert extraterritorial jurisdiction contravenes the jurisdictional principles of international law and constitutes an infringement on the sovereignty of other states, inevitably eliciting resistance from the affected states. Blocking statutes refer to legislative measures enacted by a sovereign state to neutralize the extraterritorial application of foreign laws within its jurisdiction, with the primary objectives of eliminating, preventing, and countering the impact of such laws.

From a historical perspective, the scope of blocking statutes has evolved through two distinct phases. In the initial phase, these statutes primarily addressed issues related to mutual legal assistance, employing legislative mechanisms to block improper evidence-gathering requests and the enforcement of actions that compromised the state's judicial sovereignty. In the subsequent phase, blocking statutes expanded into the realm of economic sanctions, prohibiting domestic entities from complying with the sanctioning laws of foreign states.

In terms of conceptual definitions, Jennison describes blocking statutes as prohibitive legislation enacted to counter the extraterritorial economic sanctions imposed by sanctioning states. Huo further elucidates the legal foundation of blocking statutes, emphasizing their role in obstructing the extraterritorial effects of foreign sanctioning laws. By instituting rules such as the prohibition of compliance and claims clauses, these statutes aim to restrict the application of foreign sanctions within the enacting state's territory, thereby diminishing or neutralizing their extraterritorial jurisdictional effects.

From the analysis of the normative content, the blocking statutes contain four types of prohibitive provisions, including the prohibition of executing foreign government orders, prohibition of executing foreign court rulings, prohibition of providing evidence or information to foreign judicial institutions, and providing compensation to domestic companies subject to foreign sanctions. Contemporary blocking statutes typically incorporate four core provisions: the prohibition of discovery, the blocking of foreign measures, the non-enforcement of foreign judgments, and the provision of compensation. These provisions are fundamentally designed to counteract the improper extraterritorial application of foreign laws, thereby safeguarding national sovereignty and the rights of domestic entities.

Blocking statutes possess a dual attribute. On the one hand, they exhibit a confrontational dimension, negating the effectiveness of U.S. antitrust laws, economic sanctions laws, and similar statutes within the enacting state's borders through domestic legislation. On the other hand, they have a political-diplomatic dimension, serving as a bargaining tool in negotiations with the U.S. to foster consensus on contentious issues. In essence, blocking laws constitute a legal countermeasure against the international abuse of extraterritorial jurisdiction. However, their political symbolism often outweighs their tangible legal effects.

The academic discourse on the origin of blocking laws presents two prevailing views. One perspective attributes the genesis of blocking legislation to the Business Records Protection Act, enacted by the Province of Ontario, Canada, in 1947. The alternative view identifies the Protection of Trading Interests Act, promulgated by

the United Kingdom in 1980, as the first blocking law. Both statutes aimed to constrain the extraterritorial enforcement of U.S. antitrust laws.

From the perspective of historical evolution, since the 1960s, in response to the extraterritorial expansion of U.S. jurisdiction in the area of antitrust and economic sanctions, countries and regions such as the United Kingdom, Canada, Australia, and the EU have enacted or amended blocking laws, resulting in four notable waves of legislation. The first legislative wave emerged during the 1960s and 1970s. This wave was catalyzed by the United States' application of the effects doctrine in antitrust law and its antitrust investigations targeting British enterprises. These practices violated the principle of territoriality under international law and encroached upon the judicial sovereignty of the United Kingdom. The second legislative wave occurred in the late 1970s and early 1980s, epitomized by the United Kingdom's Protection of Trading Interests Act 1980. This statute introduced a comprehensive blocking mechanism, including provisions for discovery blocking, foreign measures blocking, non-enforcement of foreign judgments, and recovery clauses. These measures established the foundational framework for modern blocking laws. The third wave of legislation arose in the 1990s, prompted by the enactment of the Helms-Burton Act and the D'Amato Act by the U.S. in 1996. These statutes imposed economic sanctions on Cuba and Iran while restricting the trade and investment activities of foreign enterprises in those countries, thereby posing a significant threat to the investment interests of EU enterprises. In response, the EU Council adopted Council Regulation (EC) No. 2271/96 (hereinafter referred to as the EU Blocking Regulation) in the same year aimed at countering the extraterritorial application of U.S. laws and safeguarding the interests of EU enterprises. The fourth legislative wave emerged in the early 21st century as a reaction to the U.S. increasing reliance on long-arm jurisdiction in trade and economic matters. This wave represents the continued efforts of various states to resist the extraterritorial overreach of U.S. legal and regulatory practices.

### **Main Contents of the EU Blocking Regulation**

The EU Blocking Regulation, adopted by the EU in 1996, remained largely dormant until its revitalization in 2018. This resurgence was driven by the United States' pursuit of an "America First" policy under the Trump administration, which created significant tensions in US-EU relations across political, economic, trade, and security domains. In response to increasing pressure from the U.S., the EU intensified its enforcement of the EU Blocking Regulation. However, judicial practices among EU member states have revealed inconsistencies in the interpretation and application of the Regulation.

The normative framework of the EU Blocking Regulation is structured across four distinct levels. The first level is a mechanism to exclude legal effect, which explicitly declares that judicial decisions predicated on U.S. sanctions laws targeting Cuba, Iran, and Libya are unenforceable within EU jurisdictions. The first level is the prohibition of compliance, which demands that EU entities are prohibited from complying with U.S. extraterritorial sanctions unless specifically authorized by EU authorities. The third level creates the right of judicial remedy, allowing EU enterprises that suffer actual damages due to U.S. sanctions to sue for damages to the relevant responsible entities. The fourth level establishes the information declaration mechanism, mandating business entities affected by sanctions to fulfill their statutory reporting obligations to the EU competent authorities.

The strategic positioning of the EU Blocking Regulation is to construct a comprehensive legal barrier. This barrier operates through both negative mechanisms, such as negating the cross-border legal impact of U.S. sanctions, and positive defense measures, such as reinforcing the rights and interests of market participants within the EU. Collectively, these measures aim to neutralize the extraterritorial effect of third-country laws and safeguard the sovereignty of the EU legal and economic order.

### **Evaluation of the Effectiveness of the EU Blocking Regulation**

The effectiveness of blocking statutes in international practice is often closely related to the comprehensive strength of a country. The EU Blocking Regulation has positive blocking effects, while inevitably having its limitations.

In terms of the positive effect of the regulation, it significantly enhances the position of the EU in trade negotiations with the U.S., and provides robust legal defenses for EU enterprises involved in U.S. litigation. Its adversarial nature is evident in two primary aspects. The first is clear identification of prohibited foreign laws; the EU Blocking Regulation includes an annex listing foreign laws with which compliance is prohibited. This annex was updated in 2018 to reflect changes in the U.S. sanctions, demonstrating adaptability to evolving circumstances. The second is the claim mechanism: The EU Blocking Regulation enables EU entities adversely affected by U.S. sanctions, such as the Helms-Burton Act, to initiate lawsuits in member state courts and secure enforceable judgments.

Despite its contributions, the EU Blocking Regulation faces several challenges and constraints. First, the application of the Regulation faces a conflict-of-laws dilemma. Entities subject to both U.S. sanctions and the EU Blocking Regulation often encounter conflicting legal obligations, placing them in a precarious position. For instance, in *Bank Melli Iran v. Telekom Deutschland*, the conflict revealed the institutional dichotomy forcing entities to choose between breaching U.S. sanctions or violating the EU Blocking Regulation. Decisions in such cases are typically influenced by the relative severity of consequences associated with each breach. Second, blocking statutes have a distinct political weakness. The EU legislature's strategic positioning of the Regulation reflects its dual political and legal dimensions. However, the Regulation is neither confined to addressing political pressure nor endowed with sufficient legal potency. In practice, it functions primarily as a countermeasure aimed at persuading the U.S. to amend its sanctions policies. Consequently, its implementation has been modest, prioritizing diplomatic risk management over strict enforcement. Given the close economic ties between EU enterprises and the U.S., the Regulation struggles to achieve meaningful "decoupling", and its deterrent effect on U.S. policies remains limited. Third, the scope and strength of the protection of the blocking statutes are insufficient. The 2018 revision of the Regulation's annex is limited to U.S. sanctions against Cuba, Iran, and Syria, excluding broader economic sanctions laws. Consequently, it fails to fully mitigate the chilling effect on EU companies. The practical application of its damage mechanism also raises concerns regarding its operability and effectiveness.

In addition, blocking statutes indicate judicial inconsistencies. Divergences in the interpretation and application of the Regulation among member state courts have led to inconsistencies between legislative intent and judicial practice.

While the EU Blocking Regulation incorporates four core legal mechanisms, compensatory, denial, boycott, and sanction, that mitigate the adverse effects of U.S. long-arm jurisdiction, its effectiveness is constrained by

external factors. The well-established domestic sanctions framework and the dominance of the dollar-based international settlement system of the U.S., both significantly weaken the EU Blocking Regulation's impact.

### **The Concept and Typical Mode of Confrontational Measures**

Analyzed from a jurisprudential perspective, the legislative model underpinning sanctions laws is fundamentally distinct from that of blocking laws. Unlike blocking laws, which primarily aim to negate and counteract the extraterritorial effects of foreign sanctions, sanctions legislation adopts more proactive and confrontational measures to respond to external legal and economic pressures. The historical development of confrontational countermeasures is relatively recent compared to blocking countermeasures, with Russia's approach in recent years serving as a prominent example.

#### **Confrontational Countermeasures in Russia**

The establishment of Russia's anti-sanctions legal framework arises from the intensifying unilateral sanctions imposed by Western states, compounded by geopolitical conflicts in Russia's neighboring regions. The Crimean Crisis of 2014 marked a pivotal moment in this regard. In response to allegations of violating Ukraine's sovereignty, the U.S. and the EU imposed the first round of large-scale sanctions against Russia. These measures targeted sectors including finance, energy, and defense, while also freezing the assets of Russian officials and restricting the financing capabilities of key enterprises. The 2022 Russia-Ukraine conflict further escalated the sanctions regime, with Western states implementing what they termed the toughest sanctions in history. These measures included the freezing of the Russian Central Bank's foreign exchange reserves, exclusion from the Society for Worldwide Interbank Financial Telecommunication (SWIFT) international payment system, and the imposition of energy embargoes. Faced with these unprecedented sanctions, Russia accelerated the development of its anti-sanction legislation, reflecting a strategic shift towards institutionalizing confrontational legal measures in response to escalating external pressures.

On December 30, 2006, Russia enacted the Law on Special Economic Measures, which established the legal framework for restrictive measures and laid a foundational structure for subsequent legislative developments. On May 1, 2019, the federal law about Special Economic Measures and Enforcement Powers was enacted, further refining the framework by clearly delineating the conceptual boundaries between "special economic measures" and "coercive measures".

The legislation specifies that special economic measures apply in cases necessitating an immediate response to internationally unlawful or unfriendly acts by foreign states, their agencies, or officials, especially when such acts pose threats to Russia's interests, security, or the rights and freedoms of its citizens. In contrast, coercive measures are introduced pursuant to resolutions of the United Nations Security Council (UNSC), with their introduction, modification, suspension, or revocation being guided primarily by UNSC resolutions. Article 2 of Special Economic Measures and Enforcement Powers states that special economic measures must adhere to the principles of legality, legitimacy, and objectivity, while the implementation of coercive measures is determined by the purposes and principles enshrined in the United Nations Charter. Article 3 stipulates that special economic measures are temporary and must not exceed the degree of restrictiveness necessary to address the circumstances underlying their application.

This legislation underscores the targeted nature of Russia's countermeasures, focusing on acts deemed internationally unlawful or unfriendly, while also adhering to principles of legality, proportionality, temporariness, and compliance with *jus cogens* norms of international law. In terms of specific provisions, the law authorizes the adoption of a range of special economic measures, including suspension of economic, military, and technical cooperation programs; freezing of funds and property; prohibition or restriction of foreign economic transactions; termination or suspension of international trade agreements and other treaties; imposition of import and export tariffs; control of ports and airspace; restrictions on travel; prohibition of participation in international scientific and technological programs and projects. Despite these provisions, Russia lacked a comprehensive and systematic anti-sanctions legislative framework during this period. The Law about Special Economic Measures and Enforcement Powers primarily addressed immediate countermeasures and international obligations but fell short of establishing a cohesive and robust anti-sanctions legal regime.

On August 6, 2014, Russian President Vladimir Putin issued a decree imposing import restrictions in response to foreign sanctions. This decree outlined countermeasures, including a 12-month trade restriction on countries that had imposed sanctions on Russia, as well as import bans targeting key goods such as food and agricultural products. The decree has since been renewed annually through subsequent presidential executive orders.

However, as sanctions expanded to encompass areas such as science, technology, and finance, Russia faced an urgent need to strategically defend its economic sovereignty through codified legislation that would provide a stable legal basis for long-term countermeasures. In response, on June 4, 2018, President Putin signed the Law on Measures (countermeasures) against unfriendly actions of the United States of America and other foreign countries (hereinafter referred to as the "Russian Countermeasures Law"), marking a significant legislative milestone.

The Russian Countermeasures Law is notable for providing, for the first time, a statutory definition of "countermeasures" and systematizing the procedural framework for their implementation. Under the law, the President of the Russian Federation is empowered to adopt a range of countermeasures in response to unfriendly acts by foreign countries or organizations. These measures include, but are not limited to terminating or suspending cross-border cooperation projects in specified sectors; imposing import and export controls on designated commodities and raw materials; restricting the participation of relevant entities in economic activities, such as government procurement, public works, and the privatization of state-owned assets. Substantively, the Russian Countermeasures Law consolidates the countermeasures previously enacted through presidential decrees. It primarily serves as a legislative acknowledgment of the president's authority in this domain, while the specific criteria and procedural details for implementation remain contingent on subsequent presidential decrees. In essence, the law provides a framework that institutionalizes the executive's anti-sanctioning powers while reinforcing Russia's ability to respond to external pressures in a systematic and legally grounded manner.

In the aftermath of the Russian-Ukrainian conflict, Russia has undertaken multiple amendments to its principal anti-sanctions frameworks, the Law About Special Economic Measures and Enforcement Powers and the Russian Countermeasures Law, to address evolving requirements for countermeasures. The Law About Special Economic Measures and Enforcement Powers was first amended in June 2022, focusing on enhancing provisions related to asset freezing to ensure compliance with international standards, refining legal norms to

align with domestic judicial practices, and optimizing its application within Russia. A second amendment in August 2023 expanded the scope of special economic measures and introduced more stringent restrictions on the operations of foreign organizations within Russian territory. The third amendment, enacted in August 2024, further bolstered financial security measures, particularly by tightening regulatory oversight over the activities of foreign entities operating in Russia, thereby reinforcing mechanisms for safeguarding financial sovereignty. Similarly, the Russian Countermeasures Law underwent four significant amendments in May 2022, June 2022, December 2023, and August 2024, to respond dynamically to the intensification of sanctions imposed by the U.S. and other Western nations.

In addition to these legislative developments, Russian President Vladimir Putin issued a Presidential Decree in March 2022 introducing the Ruble Payment System Decree. This directive mandates that creditors from unfriendly states settle debts exceeding a specified threshold in rubles and requires natural gas transactions with such countries to be conducted in rubles. Concurrently, the decree promotes the State Payment System Law, facilitating the development of a two-pronged countermeasure strategy characterized by resource binding and system substitution. This dual-track strategy has restructured the rules governing energy trade settlements and directly challenged the hegemony of the US dollar by mandating the adoption of Russia's domestic payment systems. The Ruble Payment System serves as a landmark response to financial sanctions, demonstrating a model of resilience and adaptability. The approach adopted by Russia, leveraging natural resources to bind economic transactions to local currencies while substituting external systems with domestically controlled mechanisms, offers a significant precedent for other emerging economies.

### **Evaluation of the Effectiveness of Russia's Confrontational Countermeasures**

According to data published by the International Monetary Fund (IMF), since the official outbreak of the Russian-Ukrainian conflict in February 2022, Russia's Gross National Product (GNP) experienced a modest decline of 1.2% in 2022. Remarkably, the Russian economy demonstrated resilience, achieving positive growth of 3.6% from 2023 to 2024, even though the 2008-2009 global financial crisis inflicted significantly greater damage on the Russian economy than the sanctions imposed as a consequence of the conflict.<sup>1</sup> This outcome contrasts sharply with the expectations of the U.S., EU, and other sanctioning states, which anticipated that the sanctions would result in the rapid collapse of the Russian economy.

Central to Russia's conceptualization and execution of countermeasures is the strategic development of "disproportionate anti-sanctions" grounded in Russia's intrinsic strengths and resource endowments. Specifically, the effectiveness of Russia's countermeasures hinges on its strategic deployment of disproportionate measures, leveraging its inherent strengths and resource advantages. This strategy involves a focused understanding of the core industrial security imperatives within the national economy, advancing the localization of critical products and technologies, diversifying foreign trade and economic activities, and utilizing strategic resources such as energy and foodstuffs as instruments of influence. These efforts aim to counteract the adverse effects of sanctions imposed by a coalition of nations and facilitate a reversal in the trajectory of Gross Domestic Product (GDP) growth.

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<sup>1</sup> International Monetary Fund data on the Russian Federation, <https://www.imf.org/en/Countries/RUS#whatsnew>, last visited on 3 June 2025.

Russia's experience demonstrates that, in the context of multi-party sanctions and the challenges posed by reverse globalization, fostering a resilient economic system necessitates the stabilization of internal advantages alongside a deliberate enhancement of autonomous and controllable capacities in essential sectors. This approach includes actively fostering international cooperation, constructing a diversified network of economic relationships, and harmonizing the intricate interplay between security and development, autonomy and openness, and immediate versus long-term objectives. This strategic framework for establishing systematic countermeasures offers significant insights into safeguarding national security and advancing national interests.

Russia's establishment of an anti-sanctions legal framework reflects a unilateralist strategy to counter Western sanctions through the extraterritorial application of domestic law, embodying a fusion of legal instruments and geopolitical imperatives. Russia's confrontational countermeasures, viewed externally, prioritize safeguarding its territorial security over accommodating the eastward expansion of the North Atlantic Treaty Organization (NATO) or the United States' strategic objective of fostering instability on the Eurasian continent for geopolitical advantage. This fundamental conflict underscores why Russia's anti-sanctions strategy differs from the EU's approach, which relies on restrictive measures primarily to mitigate the effectiveness of sanctions. While the U.S. has imposed only limited sanctions on select European entities, grounded in its longstanding alliances and shared ethnic and cultural ties, its approach towards Russia reflects deeper conflicts of national interests and divergent long-term strategic objectives. The inconsistency between Russia, the U.S., and the EU has resulted in a relatively muted international public outcry and less pressure on the U.S. and its allies to address potential ruptures in international relations stemming from their sanctions against Russia.

From an internal perspective, Russia's formidable military capabilities reinforce its resilience, enabling it to implement robust countermeasures even in the face of coordinated sanctions by the U.S., Europe, and other Western powers. This confrontational approach is rooted in profound historical and practical considerations, providing a valuable empirical case for analyzing the design and execution of anti-sanctions strategies. Russia's experience is particularly instructive for current and prospective sanctioned states, especially large economies, in navigating the complexities of geopolitical and economic pressures.

### **Analysis of the Effects of Countermeasures**

#### **Positive Aspects of the Legal Implementation of Countermeasures**

From the perspective of national sovereignty, the positive significance of countermeasures as a core instrument for addressing unilateral sanctions lies primarily in the preservation of sovereign dignity and the correction of disproportionate power dynamics. Unlike the symbolic nature of traditional diplomatic protests, countermeasures employ substantive actions to convey political messages, serving a declarative function that clearly delineates the sanctioned state's position and strategic bottom line. For instance, the enactment of China's Anti-Foreign Sanctions Law represents not only a legal response to the arbitrary imposition of unilateral sanctions by other nations but also a demonstration to the international community of its resolve to safeguard its core national interests.

From the perspective of international relations theory, countermeasures function as a mechanism for balancing power. In a unipolar hegemonic system, economic sanctions often serve as a low-cost instrument for dominant powers to impose their will on others. Countermeasures provide a means to mitigate the effects of



disproportionate power by establishing reciprocal deterrence. For example, Russia's creation of the System for Transfer of Financial Messages (SPFS) as an alternative to the Society for Worldwide Interbank Financial Telecommunication (SWIFT), while not fully dismantling dollar hegemony, offers a pathway toward the de-dollarization of energy trade. This "system hedging" strategy not only diminishes the unilateral advantages enjoyed by the sanctioning state but also contributes to momentum for reforming the international monetary system.

From an economic perspective, the core utility of countermeasures lies in their ability to influence the policy decisions of the sanctioning state by imposing economic costs. In game-theoretic terms, when the anticipated losses resulting from countermeasures surpass the perceived benefits for the sanctioning state, a threshold for policy adjustment may be reached. The deterrent function of countermeasures operates through an economic cost-transmission mechanism, shaping the policy calculus of the sanctioning state. For instance, the EU's countermeasures against Russian energy exports in 2023 led to a significant surge in European natural gas prices, compelling certain member states to reassess the sustainability of sanctions against Russia. This reverse-pressure mechanism highlights the strategic utility of countermeasures. The economic effectiveness of countermeasures, however, is influenced by several variables. First, the strategic importance of the targeted industry plays a critical role; for example, countermeasures directed at critical technological sectors, such as semiconductors, carry heightened deterrent potential. Second, the design of countermeasures must include a degree of reversibility; for example, China's phased restrictions on coal imports from Australia preserve flexibility for policy adjustments. Third, the extent of reliance on the international supply chain amplifies the impact; for instance, China's restrictions on exports of essential minerals and raw materials have directly affected the global semiconductor industry, significantly magnifying the countermeasure's effects. The interplay of these factors determines the practical effectiveness of countermeasures, underscoring the importance of strategic design in maximizing their utility in economic and geopolitical contexts.

From the perspective of the international order, countermeasures hold significant potential at the normative level to shape international rules. When unilateral sanctions frequently exceed the bounds of international law, the cumulative impact of systematic countermeasures may catalyze the development of new legal norms. For instance, the EU's Blocking Regulation, which denies the extraterritorial effect of the U.S. sanctions, effectively enshrines the principle of the right to choose compliance. This principle empowers enterprises to independently decide whether to adhere to EU or the U.S. law, representing an institutional innovation that not only challenges traditional jurisdictional theories but also offers a model for constructing a multipolar compliance framework. In terms of order reconstruction, the value of countermeasures as a central instrument in international economic and trade interactions extends beyond immediate confrontation to include the long-term shaping of rules. In China's countermeasures legislation, elements of the EU's blocking countermeasures and Russia's confrontational countermeasures framework have been integrated with China's unique national conditions. This approach has led to the development of a sophisticated countermeasures system characterized by a transition from rudimentary retaliation to targeted and precise measures, from isolated actions to multi-sectoral coordinated countermeasures, and from the use of economic tools to the deployment of systematic legal norms. This evolution highlights the transformative capacity of countermeasures to serve not only as a response mechanism but also as a vehicle for institutional and normative innovation within the international legal order.

### **The Dependence on Comprehensive National Strength**

Countermeasures are not merely isolated legal tools; their implementation is deeply interwoven with the structural framework of a state's comprehensive national strength. Comprehensive national strength, encompassing elements such as economic capacity, scientific and technological autonomy, market control, institutional influence, and strategic deterrence, fundamentally shapes the scope and intensity of countermeasures' impact. In contrast, the effectiveness of countermeasures employed by developing countries is frequently constrained by limitations inherent in their national strength. These constraints stem from disparities in economic dependence, technological substitutability, and the capacity to shape international rules. Such structural power imbalances result in markedly different policy outcomes for ostensibly similar countermeasures across varying national contexts. This divergence underscores the critical role of national strength in determining the practical efficacy of countermeasures, highlighting the interplay between legal mechanisms and the broader geopolitical and economic structures.

The actual effectiveness of countermeasures is realized through three primary mechanisms, each of which is positively correlated with comprehensive national strength. First, the economic cost transmission mechanism relies on a state's market size and the criticality of its industries. Countermeasures under this mechanism impose economic costs on the target state by exploiting dependencies in trade or production networks. Second, the technological deterrence mechanism operates through a country's irreplaceability in key technological domains. Countermeasures by states holding a bottleneck position in global technology chains can disrupt supply chains, exerting leverage not solely based on economic size but on the strategic importance of their technological contributions. Third, the rule reconfiguration mechanism enables states with substantial comprehensive national strength to influence the evolution of international rules. Countermeasures under this mechanism can pressure the international community to adapt or reform existing norms and frameworks to reflect the sanctioning state's interests.

When comprehensive national strength is insufficient to support substantive countermeasures, such measures often devolve into "performative sanctions". This phenomenon is especially pronounced in developing countries, where the primary function of countermeasures shifts toward signaling. For example, the U.S. has frequently employed sanctions as a demonstration of assertiveness to alleviate domestic political pressures rather than to cause significant harm to the target state. Similarly, China and Russia have enacted coercive anti-sanctions laws, which, while rhetorically severe, have not inflicted substantial economic damage on their targets. Instead, these measures serve to project resilience and defiance in the face of external pressures, leveraging the disparity between the strict language of the laws and their relatively lenient enforcement to craft a narrative of national strength. In the broader international context, sanctions also function as signaling mechanisms. They serve as declarations of opposition to the behavior of the target state and, when coordinated with allies, reinforce a unified front against undesirable actions. Domestically, sanctions can have symbolic significance, addressing political pressures to act against perceived misconduct by the target state. These dual roles underscore the complex interplay between the normative, political, and economic dimensions of countermeasures.

Countermeasures are inherently a reflection of comprehensive national strength, with their effectiveness bounded by the economic depth, technological sophistication, and regulatory breadth of the sanctioning state. Contemporary practices within the international system reveal a pronounced "Matthew Effect", wherein powerful

states consolidate their dominance by weaponizing rules, while weaker states struggle to navigate the precarious balance between symbolic sanctions and substantive compromises.

To fundamentally transcend the inherent limitations of countermeasures, it is imperative to undertake systematic capacity-building centered on enhancing comprehensive national strength. This requires cultivating localized advantages in critical areas through technological innovation, institutional reforms, and the strategic reconstruction of alliances. By transforming countermeasures from reactive tools into proactive strategic levers, states can redefine their position within the international system. As evidenced by Russia's energy countermeasures and China's export controls on critical minerals, the strategic mastery of key resources or control over essential corridors can exert disproportionate influence on the international stage. For developing countries, the realization of synergistic upgrades across various dimensions of national strength is essential. Such efforts can disrupt the perpetual cycle of "sanctions-countermeasures" that characterizes the international power game. Moreover, they can contribute to fostering a more inclusive and equitable global governance framework, promoting stability and fairness in the international order.

### **The Dilemma of Sanctioned States and Entities**

The primary objective of extraterritorial blocking legislation is to establish a legal barrier against the extraterritorial application of foreign legal systems, thereby safeguarding the legitimate rights and interests of domestic economic actors. Exemplified by the EU Blocking Regulation, the core function of such legislation is to nullify the enforceability of U.S. long-arm jurisdiction within the enacting jurisdiction and to provide a legal foundation for entities under its governance to refuse compliance with extraterritorial sanctions.

However, at the practical level, this mechanism has revealed deep institutional contradictions. When market participants opt to adhere to the laws of the sanctioning state by withdrawing from the targeted market, they expose themselves to potential legal repercussions under the blocking legislation. This creates a paradoxical dilemma wherein "compliance with one legal regime constitutes a violation of another".

From both corporate and individual perspectives, blocking legislation imposes dual legal constraints on multinational enterprises by establishing rules that entail prohibitive obligations. Specifically, if enterprises comply with the sanction directives issued by U.S. judicial or administrative authorities, they risk violating the blocking legislation, subjecting themselves to administrative penalties or criminal prosecution by domestic regulatory agencies. Conversely, adherence to the blocking legislation by refusing to implement extraterritorial sanctions can result in exclusion from global supply chains, diminished market share, disrupted trading relationships, and other significant economic losses. This duality underscores the complexity and tension inherent in the operation of blocking laws, highlighting the challenges faced by multinational enterprises in navigating conflicting legal regimes within an increasingly interconnected global economy.

The implementation of blocking legislation presents a significant dilemma. On one hand, strict enforcement of the law to hold corporations accountable for violations may reinforce the authority of the legal framework. However, such enforcement risks deviating from the legislation's original purpose, protecting the interests of market participants.

Empirical research underscores a strong positive correlation between the effectiveness of blocking legislation and the comprehensive national power of the enacting state. When a country possesses comparative

advantages in market size, technological autonomy, financial influence, and other dimensions, the deterrent effect of its blocking legislation is more likely to be realized. This relationship is particularly acute for small and medium-sized economies. Negative responses to unilateral sanctions may result in the gradual erosion of economic stability, while active countermeasures risk accelerating systemic economic decline. These dynamics can create a self-perpetuating “sanctions-countermeasures-recession” cycle. In judicial practice, the logic of such power dynamics manifests as a survival dilemma for enterprises. When the enacting country lacks sufficient national power, market participants are compelled to make a stark choice between legal compliance and business survival. This predicament underscores the inherent challenges of balancing the enforcement of blocking laws with the need to protect the economic viability of domestic actors in a highly interconnected global economy.

To resolve the challenges faced by sanctioned countries and entities, a layered response system could be developed. At the national strategic level, China could employ a precision-based counterbalance strategy by instituting a compliance resilience mechanism under the framework of the Anti-Foreign Sanctions Law. This would involve differentiating between core national interests and general commercial activities when setting response criteria. In implementing the Anti-Foreign Sanctions Act, a graded response mechanism could be adopted to tailor countermeasures to the intensity of sanctions. For low-intensity sanctions, such as visa restrictions, reciprocal measures could be taken to assert the nation’s stance and uphold sovereign dignity. Medium-intensity sanctions, such as disruptions to key technology supplies, would trigger precise countermeasures targeting specific sectors or entities. In the case of high-intensity comprehensive sanctions, such as financial sanctions, a systematic response program would be activated. This program could include establishing alternative financial channels, enhancing autonomous supply chains, and reducing external dependencies to strengthen economic resilience. Such a layered approach would improve the relevance and effectiveness of countermeasures while minimizing collateral damage to the domestic economy, thereby striking a balance between anti-sanctions and sustainable economic development.

At the enterprise level, diversified strategies could be adopted to mitigate the impact of sanctions under different scenarios. Sanctioned entities could enhance their resilience through collaborative business transactions, leveraging resource complementarities. Additionally, sanctioned and non-sanctioned enterprises could explore legally compliant pathways to circumvent economic sanctions and foster innovative forms of cooperation. Governments or private institutions could establish specialized entities to conduct safeguard transactions with sanctioned enterprises, thereby maintaining the stability of critical supply chains. Moreover, sanctioned enterprises could optimize resource allocation through strategies such as business restructuring and asset divestment to minimize adverse economic impacts. Building on these strategies, some scholars advocate for the establishment of an “anti-economic sanctions enterprise network”. This network would position enterprises sanctioned by the U.S. and other Western countries as core nodes while actively encouraging participation from small and medium-sized enterprises globally and incentivizing larger corporations to join. By expanding membership, reshaping industrial and supply chain configurations, and promoting internal economic circulation, this network could offer member enterprises increased trading opportunities, policy support, and protection for specific industries. In addition, it would enhance the collective capacity to withstand external sanctions and foster a more resilient economic ecosystem.

### **The Dilemmas of International Dispute Settlement Mechanisms**

Under the contemporary international legal framework, the dispute settlement mechanism of the World Trade Organization (WTO) faces systemic challenges to its institutional effectiveness, despite the mandatory jurisdictional competence established under the WTO Framework Agreement. These challenges stem from significant deficiencies in the global governance system, resulting in operational difficulties such as jurisdictional disputes, procedural barriers, and weak enforcement of rulings. At its core, the existing mechanism struggles to adapt to the evolving needs of international dispute resolution and lacks robust safeguards to compel member states to comply with adjudicatory outcomes. This limitation underscores a broader structural weakness within the international legal system, necessitating comprehensive reform in both mechanism design and rule-making. Additionally, rulings by international dispute resolution bodies are largely devoid of effective enforcement mechanisms. Their implementation often depends more on the relative power of states than on adherence to legal norms. With the increasing frequency and complexity of trade disputes, the existing mechanisms have proven insufficient to address contemporary challenges. This inadequacy reflects the broader crisis in the multilateral international rule of law, particularly in the context of sanctions and countermeasures.

The essence of the countermeasure dilemma lies in its manifestation of the multilateral rule-of-law crisis in the realm of sanctions. As traditional dispute resolution mechanisms experience a functional decline and power politics reassert its influence, states are compelled to navigate a precarious balance between adherence to rules and the assertion of strength to protect their interests. Consequently, many states, particularly those with substantial influence in international trade, have increasingly turned to economic sanctions as a tool to compel behavioral change in other states. Sanctioned states and entities, in turn, often resort to countermeasures, including domestic legislative responses, as a means of resistance. This growing reliance on unilateral sanctions and countermeasures has become a prominent method for resolving international disputes and pursuing private remedies. However, this trend has not only intensified tensions in international relations but also exposed the inadequacies of existing international law in addressing such disputes. To address these challenges, systemic reforms are urgently required to strengthen the WTO dispute settlement mechanism and the broader framework of international law. Enhancing enforcement capabilities, creating mechanisms to ensure compliance, and fostering multilateral cooperation are essential steps toward reestablishing the rule of law in international trade and mitigating the escalating reliance on unilateral measures.

Given the growing prevalence and impact of unilateral sanctions, it is essential for all nations, particularly China, to enhance their domestic legal frameworks aimed at countering such measures. Strengthening these frameworks would enable the mitigation of the adverse effects of sanctions through the provision of national-level remedies, while also facilitating more effective management of the broader implications.

Specifically, China should focus on improving its Anti-Foreign Sanctions Law and other relevant legislative instruments. This entails clarifying the conditions, procedures, and scope of countermeasures to ensure their legitimacy and effectiveness. Drawing on the experiences of other countries, China can also establish a multi-tiered anti-sanctions response mechanism. This may include establishing a dedicated agency to address sanctions-related issues, and developing comprehensive sanctions response plans to anticipate and address various scenarios. By implementing these measures, China would not only bolster its capacity to respond to unilateral sanctions but also offer valuable practical insights to the international community.

In addition to domestic reforms, China should actively engage in the formulation and reform of international rules to address the challenges posed by unilateral sanctions. Advocating for the establishment of a more robust and equitable international legal framework through forums such as the United Nations and the World Trade Organization (WTO) is a critical step. Furthermore, China should pursue bilateral and multilateral cooperation to explore innovative approaches to counter unilateral sanctions. This could include establishing collaborative frameworks with other nations to provide constructive and practical solutions to the global community. By aligning the enhancement of its domestic legal system with efforts to reshape international rules, China can not only effectively address the challenges posed by unilateral sanctions but also contribute positively to the reform and evolution of the global dispute resolution system.

Countermeasures fundamentally function as private remedies available to states, and their emergence and evolution are deeply rooted in the structural contradictions of the international system. On one hand, the proliferation and abuse of unilateral sanctions within the international community have undermined the United Nations-centered global order, weakening the efficacy of traditional multilateral governance frameworks. On the other hand, the inadequacy of the existing international dispute resolution mechanisms and the ongoing reconfiguration of international political and economic rules have necessitated a shift toward more effective bilateral or regional strategies. This shift has inadvertently provided fertile ground for the development of both unilateral sanctions and corresponding countermeasures.

From the perspective of global governance and the international rule of law, the increasing use of countermeasures indeed exacerbates the fragmentation of international law. However, it must be acknowledged that such fragmentation is an inherent consequence of shifts in the international power structure and the accompanying transformation of the global rules-based system. In this context, while it may be challenging for individual states to unilaterally shape the trajectory of international system evolution, proactive adaptation strategies can enable them to carve out a strategic niche that aligns with their national interests. This approach prioritizes the protection of state sovereignty and developmental objectives. The choice between pursuing multilateral or unilateral pathways to achieve these goals depends on the specific circumstances of each case. Ultimately, countermeasures reflect a dynamic response to the structural realities of the international system, underscoring the interplay between state agency and systemic constraints in shaping the contours of global governance.

## **Conclusion**

In the field of international law, countermeasures are generally categorized based on their practical effects into blocking countermeasures and confrontational countermeasures. Blocking countermeasures are designed to neutralize, prevent, and counteract the application and impact of foreign sanction laws and regulations through domestic legislation within the enacting state's jurisdiction. By contrast, confrontational countermeasures take a more assertive approach, implementing sanction measures in direct retaliation against foreign sanctions.

This article examines these two legal approaches to extraterritorial countermeasures, focusing on their conceptual underpinnings, historical evolution, legislative impacts, and emerging trends. Using the EU's blocking countermeasures and Russia's confrontational countermeasures as primary examples, the research delves into the distinctive characteristics of each approach. The article also highlights the dilemmas encountered

in implementing countermeasures. These include the challenges of avoiding adverse consequences for the sanctioned countries and entities, and the difficulties in seeking effective international dispute resolution mechanisms. The findings underscore that the efficacy of countermeasures is fundamentally contingent on a state's comprehensive national strength. In formulating countermeasures, it is imperative to account for a state's specific national conditions and diplomatic priorities, while carefully balancing the intensity and scope of blocking measures and anti-sanctions. Enhancing the practicality and enforceability of countermeasure laws and optimizing their implementation in practice are crucial to achieving intended legal and strategic objectives.

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