



Embargo as an Act of International Law Enforcement

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Abstract

This research was motivated by the invasion carried out by Russia against Ukraine, which caused other countries such as the United States and its allies to take a stance by imposing an embargo on Russia. The purpose of this study is to determine whether an embargo can be implemented as a law enforcement measure and its impact on countries that violate international law. The research method used in this study is normative legal research, namely by analyzing legal problems in laws and regulations that are related to the problem being studied. The problem approach used is a conceptual approach, using primary legal material sources as a reference to complete the writing and collection of legal materials carried out using library techniques. Based on the research results, an embargo can be carried out as an international law enforcement measure by the Security Council as regulated in Article 41 of the UN Charter as an action that does not use armed force (non-military) in maintaining world security and peace. An embargo is an international law enforcement measure that is soft in the sense that this action is gentle and not harsh like the use of aggressive military. The impact of an embargo on a country that violates international law against another country such as Russia does not have a significant impact. However, the impact of implementing an embargo is that the embargo can put pressure on countries that violate international law to return to complying with international law. The implementation of an embargo must be carried out carefully so that it does not have a broad impact on human rights such as women, children and the elderly.

Keywords: Embargo; Law Enforcement; International Law.

INTRODUCTION

The role of International Law in the development of a country's legal system has a very important function. In particular, regulating the protection of the community in conflicts that occur in a country. International law is also one of the tools and means that can be used by any peaceful country or neutral country, to participate in reducing the suffering experienced by people due to conflicts that cause torture, rape, and murder in a country.¹

When a dispute or conflict occurs, the role of international law becomes crucial in resolving international disputes. For example, after Russia under the leadership of President Vladimir Putin, who ordered a military operation on February 24, 2022 that led various countries to impose sanctions on Russia. The sanctions implemented include economic and financial sanctions, in the hope of stopping Russia's attacks on Ukrainian territory. Countries that impose these sanctions include:² 1) United States: The United States cut in half high-tech imports from Russia and restricted Russian access to American technology, as well as prohibiting energy companies from adding capital to Russia; 2) European Union: The European Union took measures such as freezing

¹ Ayuni Yuliantingsih, "Agresi Israel Terhadap Palestina Perspektif Hukum Humaniter Internasional", *Jurnal Dinamika Hukum* 1, no. 12 (2012), p. 98.

² Sanksi Untuk Rusia dari AS Hingga Uni Eropa, *Ini Daftarnya* <https://news.detik.com/internasional/d-5956744/sanksi-untuk-rusia-dari-as-hingga-uni-eropa-ini-daftarnya>.

Russian assets and stopping Russian banks' access to European financial markets; 3) The British Empire: the British empire targeted Putin's closest individuals and wealthy Russian oligarchs by freezing their assets and sanctioning Russian-owned banks; 4) Japan: Japan imposed sanctions in the form of banning the issuance of Russian bonds in Japan and freezing the assets of Russian individuals. With these measures, the countries hope to put enough pressure on them to stop Russia's aggression against Ukraine.

These actions are usually triggered by conflicts created by countries that violate international law, where countries that impose embargoes hope that these policies can force countries that commit aggressive actions or that violate international law to commit to resolving the conflicts that occur. The origins of the use of embargo sanctions can be traced back to ancient times. However, in this modern context, embargo sanctions became more commonly used after World War I. An early example of the use of modern embargoes can be seen in 1919, when the League of Nations (an international organization established after World War I) imposed an embargo against the Soviet Union. This embargo aimed to restrict trade with the Soviet Union in response to actions deemed to be in violation of international law by the Soviet government at the time.³

One example of the implementation of an economic embargo was when the United States (US) imposed an embargo on Cuba in October 1960. Due to the implementation of this economic embargo, Cuba suffered losses of US\$3.9 billion or more than IDR.49.9 trillion in the foreign trade sector. The cause of the economic embargo of the United States against Cuba is because the Cuban state has always refused to make progress on human rights, especially in terms of democracy and respect for humanity.

The embargo was born as a result of the idea of international peace and security which is the goal of the United Nations or the United Nations as stated in Article 1 of the United Nations Charter as stated in the UN Charter Article 1, namely: 1) "To maintain international peace and security, to achieve this collective measures are taken to prevent and eliminate threats to peace and other suppressive or aggressive actions or violations of peace. *To Maintain International Peace and Security, to achieve this, collective steps are taken to prevent and eliminate treaches to peace and suppressive or agrresive actions or other breaches of the peace*; 2) To develop fraternal relations among countries through mutual respect, equal rights, and freedom of self-determination, and to take other appropriate measures to strengthen universal peace. *Develop fraternal relations among nations through mutual respect, equal right and freedom of self-determination, as well as taking other appropriate measures to strengthen universal peace*; 3) To achieve international cooperation in solving international problems of an economic, socio-cultural or humanitarian nature, and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction of race, gender, language or religion and; *To achieve international cooperation in solving international problems of an economic, socio-cultural or humanitarian nature, and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion*; and 4) To be central to align the actions of nations in achieving this common goal. *To be a center for harmonizing the actions of nations in achieving this common goal*". The reason behind the embargo is that the embargo arises from the consequences of a violation of international peace and security. This situation is also based on a conflict of interest between the two, where the

³ Ibrahim, R. A. *Strategi Iran Dalam Mengatasi Dampak Embargo Kanada* (Doctoral Dissertation, Universitas Bosowa. (2022).

embargoing country hopes that its policies can force other countries to sit together in resolving the problems that occur. The embargo policy can take various forms.

METHODS OF THE RESEARCH

The research method used in this study is normative juridical research, namely by analyzing legal problems in laws and regulations that are related to the problem being studied. The problem approach used is a conceptual approach, using primary legal sources as a reference to complement the writing and collection of legal materials carried out with literature techniques.

RESULTS AND DISCUSSION

A. Embargo as an Instrument of International Law Enforcement

An embargo is a total ban on the import of certain products, or even a complete severance of trade relations with a particular country. Embargoes are usually imposed in a variety of circumstances, such as in response to acts of aggression or terrorism committed by a country, human rights violations, or violations of other international law.⁴ An embargo in this case aims to be a coercive tool for a country or government to change a policy taken or certain actions that are considered to be in violation of international law. Embargoes can also be imposed to reduce a country's ability to carry out activities that endanger international peace, security, and stability such as the development of nuclear weapons or support for terrorism.

Several types of embargoes exist, namely economic, maritime, arms, retaliatory and information embargoes, for example of an economic embargo is the most commonly used type of economic embargo to pressure the target country by restricting trade, in the effort to enforce international law, the role of international law in maintaining international order and security is indispensable international law. International law plays a very significant role in resolving international disputes.

Regarding the enforcement of international law, it should be noted that international law does not recognize the existence of international police as in international law. Unlike the national legal system which has formal institutions such as the legislature, police, prosecutors, heads of government both at the central and regional (executive) and courts that have compulsory jurisdiction over their population, the international legal system does not have all of them. International law is sorely lacking in formal institutions", according to Martin Dixon. Therefore, it is not surprising that many parties doubt the existence of international law. This makes international law referred to as not the real law⁵.

Law enforcement through international organizations there is one international institution that has a function as law enforcement, namely through the Security Council with the granting of embargoes. The use of embargoes by the Security Council is contained in Chapter VII of the UN Charter, specifically Article 41 which states that the Security Council has the authority to decide on actions other than the use of (non-military) weapons, which must be carried out for the sake of international peace and security. The Security Council

⁴ Embargo, Pengertian, Jenis, Contoh dan Dampak <https://finance.detik.com/berita-ekonomi-bisnis/d-6131076/embargo-pengertian-jenis-contoh-dan-dampak>.

⁵ Martin Dixon, *Textbook on International Law*, Blackstone Press Limited, Fourth Edition, 2001, p. 12

may request member states to implement such measures. Actions outside the use of the weapons in question are the implementation of embargoes including economic embargoes, prohibitions or termination of economic relations, flight bans, financial restrictions, and even termination of diplomatic relations. These measures were enacted through Security Council Resolutions with the aim of preventing a deterioration of the situation and to restore international security. In the view of the Security Council, the concept of imposing economic sanctions in the form of an embargo on a country in an effort to maintain international peace and security is a valuable weapon available to the Security Council to enable the United Nations as an organization that plays an important role in maintaining world security and peace to exert pressure on the target country in addition to the use of military force.

However, efforts to resolve disputes in imposing sanctions through the Security Council cannot be carried out unilaterally, as has been done by the United States and other countries that have imposed an embargo on Russia on the basis that Russia has carried out its invasion of Ukraine which is considered to have violated international law, because in the UN system where sanctions must be imposed through Security Council Resolutions against countries that violate the peace and international security, or those who commit aggression. The imposition of sanctions through the UN system still needs to be agreed upon by the five permanent members of the Security Council. Likewise, in the international legal system as stated, there is no court that has the authority to impose its jurisdiction as national law.⁶ The strength of the UN Security Council Resolutions in international disputes is found in the UN Charter, namely article 25 which states, "The Members of the United Nations agree to accept carry out the decisions of the Security Council in accordance with present Charter. Where all UN member states have agreed to accept and implement the decisions of the Security Council and the Security Council has the power to decide decisions that have binding force including such decisions are Security Council Resolutions in relation to their function in resolving disputes the parties concerned are obliged to implement them."⁷

UN Security Council resolutions are legally binding. For all members of the United Nations. Thus, it is the obligation of UN members to implement UN Security Council Resolutions, especially regarding the imposition of economic sanctions on countries that are declared to have violated international law. Therefore, the imposition of economic sanctions as stated by the UN Security Council through its resolution is a form of moral obligation that must be carried out by the international community in order to stop the actions of a country that has been declared to have committed acts of threat to world peace, violations of peace or aggression. The application of embargoes as a form of international law enforcement embargo must also pay attention to the principles of international law. State sovereignty, the use of violence, peaceful settlement, non-intervention, international cooperation, *pacta sunt servanda*.

B. The Impact of the Embargo on Countries That Violate International Law

The conflict between Russia and Ukraine began with Russia's military offensive against Ukraine ordered by President Vladimir Putin, who officially announced military operations against Ukraine on February 24, 2022. The attack was marked by explosions in a number of cities in Ukraine, including Kyiv, Odessa, Kharkiv, and Mariupol. Tensions between Russia

⁶ Morgenthau, *Politics Among Nations*, in the book D.J Harris, *Op Cit*, p. 7.

⁷ Huala Aldof, 2004, *Hukum Penyelesaian Sengketa Internasional*, (Jakarta: Sinar Grafika, 2004), p. 99.

and Ukraine have been rising since 2014, and this Russian military action has drawn strong condemnation from Western countries.

The problems of the conflict between Russia and Ukraine have made the United States (US), and western countries, Japan and Australia impose sanctions on Russia after Russia ordered its troops to the Donetsk and Luhansk regions. From the sanctions imposed on Russia to the country that receives the sanctions and their influence on international law, every action or decision taken by an individual or group will have certain consequences, in this case imposing sanctions, of course there will be an impact arising as a result of such actions or decisions. In general, impact can be interpreted as the influence or effect caused by an action or an event.⁸ The sanctions carried out are in the form of embargoes. The embargo itself has a complex impact on countries involved in international conflicts and on the enforcement of international law. The implementation of the embargo, on the one hand, can cause economic instability and a decrease in the welfare of the people in the countries subject to sanctions, as well as worsen diplomatic relations between the countries concerned.

The impact of sanctions imposed on Russia in 2022, the first year of the Ukraine War, the Russian economy shrank by 2.1%, according to the International Monetary Fund (IMF). However, the IMF estimates that the Russian economy will grow 2.2% in 2023 and predicts economic growth of 1.1% in 2024. However, the US Treasury Department claims the sanctions are really detrimental to Russia, as they have slashed 5% of economic growth that could have been achieved over the past two years.⁹ The various impacts of embargoes in the context of international law include: a) Embargoes are often used as a tool to enforce international law and mutually agreed norms. By imposing an embargo, countries or international organizations may show disapproval of actions that are considered to violate international law, such as military aggression or human rights violations; b) The occurrence of a humanitarian crisis due to the embargo in which the civilian population suffers due to shortages of basic goods, medicines, and health services. This raises ethical and legal questions about the responsibility of states imposing embargoes on the impact they have on civil society; c) Violation of state sovereignty, embargoed countries often consider it a violation of their sovereignty. This can trigger diplomatic tensions and conflicts between countries imposing embargoes and sanctioned countries; d) Effectiveness and Compliance of embargoes, the effectiveness of embargoes is often questionable, especially if the target country can evade sanctions through trade with third countries. This can reduce compliance with international law and create challenges for countries seeking to enforce embargoes; e) International cooperation, Embargoes carried out collectively, imposed by international organizations such as the United Nations, require cooperation between member states. Non-compliance by either country can undermine the effectiveness of the embargo and undermine international cooperation; f) The influence of embargoes on global political dynamics, Embargoes can affect international relations and global political dynamics. Embargoed countries may seek new alliances or change their foreign policies in response to imposed sanctions; g) Effects of embargoes on humanitarian law, in the context of armed conflict, arms embargoes may affect international humanitarian law by restricting the ability of the parties involved to obtain military equipment, which may contribute to efforts to reduce violence resulting from war so as to reduce its military power; h) An embargo can

⁸ Sanksi untuk Rusia dari AS hingga Uni Eropa, ini daftarnya <https://news.detik.com/internasional/d-5956744/sanksi-untuk-rusia-dari-as-hingga-uni-eropa-ini-daftarnya>.

⁹ Apa Saja Sanksi Terhadap Rusia dan Dampaknya <https://www.bbc.com/indonesia/articles/c1d1dl4vyk8o>

enhance the reputation of an international country because of its reputation as a defender of international law, but countries can face criticism if the embargo is considered unfair or excessive.

CONCLUSION

Embargo is a soft international law enforcement action in the sense that this action is soft and not too harsh like the use of aggressive military force. Embargo as the enforcement of international law can be carried out, the application of the embargo is expressly regulated in international law in the UN Charter and UN Security Council resolutions, the legitimacy and procedures are clearly regulated in the UN Charter, for the enforcement of the embargo is regulated in Article 41, which states that the UN Security Council may take actions that do not involve the use of (non-military) armed force in the form of an embargo. However, the implementation of the embargo does not eliminate the essence of the protection of human rights, especially for women, children and the elderly, this means that the application of embargoes related to basic needs, humanitarian needs such as food, beverages and medicines cannot be embargoed and pay attention to the principles of international law, especially in the implementation of the embargo. The impact of the embargo on countries that violate international law on other countries as it happened to Russia does not have a significant impact. However, the impact of the general implementation of embargoes is that embargoes can put pressure on countries that violate international law to return to compliance with international law. While embargoes aim to enforce international law and encourage change in the behavior of countries that violate international law, they can also have negative consequences for civil society and international relations. It is important to carefully consider the implementation of the embargo and its impact in the broader context, as well as to seek more comprehensive solutions to resolve conflicts and maintain peace

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