

Countermeasures in response to Internationally wrongful act

التدابير المضادة في مواجهة الفعل غير المشروع دوليا

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Abstract:

Countermeasures are considered an effective means of stopping internationally wrongful acts and resolving international disputes peacefully, they serve as a tool for states to protect their own interests when international organizations and international courts fail to act.

Therefore countermeasures are a legitimate right of states in international law, they differ from sanctions, self-defense, necessity, and economic measures, resorting to countermeasures is subject to certain conditions, however they cannot be exercised against certain categories of obligations identified by the International Law commission in its 2001 draft articles on responsibility of states for Internationally wrongful acts.

Key words: Internationally wrongful act, International Law commission, countermeasures, Obligations, state practice.

Introduction:

The basis of any internationally wrongful act lies in the non-conformity of the actual conduct of a subject of international law with the conduct that it should have followed in order to comply with a specific international obligation, whether the violation is positive by act or negative by abstention, the source of this obligation may be a treaty, custom, or general principles of law.

In addition to the international responsibility arising from this conduct, the injured state may react by taking countermeasures in order to protect its own injured interests.

Countermeasures are one of the topics that international law has addressed early on, and there have been old international practices that have contributed to the crystallization of its current concept, after a long period in which the use of force prevailed as a means of settling disputes between states, another period followed, after the prohibition of armed force, during which the use of non-forcible coercive measures, especially those related to economic fields between states, increased, this has established the right of the state that is subjected to an internationally wrongful act to use countermeasures against its perpetrator.

The importance of the subject is confirmed by the following:

-Countermeasures are one of the most important legitimate means available to a state to stop an internationally wrongful act in order to protect its own interests and to resolve international disputes peacefully.

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- The topic of countermeasures has been addressed in a number of articles in the International Law Commission's draft articles on state responsibility, which make an internationally wrongful act a lawful act under certain objective and procedural conditions.
- In many cases states have resorted to countermeasures due to the inaction of international organizations, and the failure of the international judiciary to address the situation.
- Although international practice has shown that the use of countermeasures has been effective in many cases, it has also been dangerous in many cases.
- The use of countermeasures often expands to collective action by involving allies according to mutual interests, which has led to the outbreak of conflicts whose effects are still felt today.

The objectives of the study are as follows:

- To clarify the concept of countermeasures and to distinguish it from other similar terms.
- To determine the legality of taking countermeasures based on the positions of both the International Law commission and the international judiciary.
- To identify the rules governing the use of countermeasures in international law.
- To identify the international obligations that are not subject to countermeasures, i.e. the restrictions on their use.
- To clarify the extent to which they contribute to reducing internationally wrongful acts through international practices of this legitimate right of states in international law.

Therefore I pose the following problem:

What are the rules governing countermeasures in international law? and what is their role in reducing internationally wrongful acts?.

In studying this topic, I relied on the analytical method by analyzing the legal provisions related to countermeasures, especially those contained in the International Law commission's draft articles on state responsibility for Internationally wrongful acts of 2001, I also relied on the descriptive method by citing some international practices of countermeasures in order to draw positive and negative conclusions from them.

The answer to the problem is based on three axes: in the first axis, I addressed the concept of countermeasures in the second, the restrictions on the taking of countermeasures and in the third axis international practices.

The first axis: concept of countermeasures

This axis includes both the definition of countermeasures and their distinction from other similar terms, as well as their legal nature and conditions, which will be explained in the following:

First: definition of countermeasures

The term "countermeasures" is relatively new, according to article 22 of the International Law commission's draft articles on state responsibility for Internationally wrongful acts of 2001 (an act of a state which is not in conformity with an international obligation towards another state is not wrongful if it constitutes a countermeasure taken against the latter state in accordance with the provisions of chapter II of part three)¹.

Therefore if the response is subject to the requirements of the legal controls related to stopping the international violation, it is called a countermeasure, however if it does not take this into account, it constitutes an internationally wrongful act for which the injured party

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is responsible when it is issued by it, even if this act was originally intended to respond to an initially wrongful act².

Several legal scholars have defined countermeasures, some define them as peaceful measures that do not involve the use of armed force, taken in response to a wrongful act committed by another state against them³, according to Dr. Wael Ahmed Allam countermeasures are defined as (the non-fulfillment of an international obligation by a state towards another state due to the latter's non-fulfillment of an international obligation towards the former state, and although the non-fulfillment of a state's international obligations is an unlawful act that entails international responsibility, it is considered a lawful act because it was taken as a countermeasure to the violation of a state's international obligations)⁴.

It is worth noting that these measures are not allowed in normal circumstances, based on the fact that the act they express is usually contrary to the rules of international law, however they enable the injured state to take action against another state that caused the damage in order to force the latter to submit, and refrain from violating its international obligations these measures are also resorted to as a means of pressure in the absence of freedom of international litigation or the imposition of deterrent sanctions⁵.

Second: distinguishing countermeasures from similar terms

Countermeasures differ from : sanctions, self-defense, state of necessity, economic measures.

1- distinguishing countermeasures from

Sanctions are (the punishment imposed on the violator of a rule or international obligation, which does not necessarily have to be issued by the affected party, as is the case with countermeasures and self-defense)⁶, thus sanctions go beyond being a mere individual means of remedying a situation of illegality and simple harm to being considered a coercive deterrent measure against those who have violated fundamental obligations related to the interests of the international community, this is what the International Law Commission stated in article 19.

2- Distinguishing countermeasures from self-defense

What distinguishes self-defense from countermeasures is that it is an armed response to an aggression to which a state is subjected, it is a principle that has been recognized since ancient times in all legal systems⁷, article 51 of the UN charter considered it a natural right as an exception to the rule prohibiting the use of force in international relations, on the other hand, countermeasures may be peaceful measures.

3- Distinguishing Countermeasures from State of necessity

Economic measures are actions taken by one or more states against another state or group of states in response to a harmful or illegal act committed by the latter, these measures do not constitute a violation of international law, but are rather a legitimate act within the jurisdiction of states, however they are considered unfriendly actions that harm the targeted state such as boycott, embargo, severance of diplomatic relations, and suspension of financial aid and economic cooperation⁸.

4- Distinguishing countermeasures from economic measures

State of necessity differs from countermeasures in terms of motivation, states take countermeasures in response to a breach of an international obligation that has already occurred against them. as for the state of necessity, it anticipates the act that may lead to a state of danger, and in some cases, the act may not even occur⁹.

Moreover the state of necessity can be used to confront a threat to the existence of a state such as an invasion, in this case the interest that the state wishes to protect must outweigh all other considerations, on the other hand, resorting to countermeasures

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in international relations does not pose any threat to the physical existence or political independence of states, they are merely exceptional measures taken to compel the offending state to fulfill its obligations, whether by stopping the unlawful act or entering into negotiations to determine appropriate solutions and assess the compensation due for the violations committed¹⁰.

Third: the legal nature of countermeasures

Determining the legal nature of countermeasures requires clarifying the positions of both the International Law commission, and the international judiciary.

1- Position of the International Law Commission:

The International Law commission's (ILC) 2001 draft articles on responsibility of states for Internationally wrongful acts includes a specific provision that legitimizes countermeasures, whereby they can be resorted to by states against another state according to specific conditions and controls as a bar to the attribution of international responsibility and this is in articles 49 to 53, the draft articles also add in article 22 the legitimacy of countermeasures taken by an injured international organization against the responsible state¹¹.

2- Position of the International judiciary:

International courts have permitted the implementation of countermeasures in many cases, the International court of justice affirmed in the Gabcikovo-Nagymaros project case that countermeasures can justify an otherwise unlawful action, provided it is in response to an internationally wrongful act committed by another state and directed towards that state, subject to certain conditions, additionally its judgment on 27 June 1986 in the Nicaragua case concerning military and paramilitary activities against Nicaragua¹², considered countermeasures as exceptions to the prohibition of international responsibility, similarly international arbitration tribunals have considered countermeasures as a defense against breaches of international law, as illustrated by the arbitral tribunal's decision on 21 July 1928 between Germany and Portugal in the Naulila case, where the violation by German forces entering the territory of Angola, then under Portuguese sovereignty was raised¹³.

Fourthly: conditions of countermeasures

It is of paramount importance to address the conditions under which countermeasures are subject to, the International Law commission has divided these conditions into objective and procedural conditions.

1- Objective conditions of countermeasures

The objective conditions of countermeasures are manifested in:

A. Occurrence of an unlawful International act

Countermeasures may only be taken against a state that is responsible for an internationally wrongful act through which it is non-compliant with its international obligations¹⁴.

B. The taking of countermeasures by the injured state in the present time until the responsible state fulfills its international obligations

Countermeasures are limited to being taken in the present time by the injured state until the responsible state fulfills its international obligations.

The term "present time" in article 49 refers to the temporary nature of countermeasures the aim of which is to restore legal justice between the injured state and the responsible state, and not to create new situations that cannot be corrected no matter how the latter state responds to the allegations against it.

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C. Taking countermeasures in a way that allows for the resumption of compliance with the obligations concerned

Countermeasures are a form of coercion, not punishment, therefore if they are effective in inducing the responsible state to comply with its obligations to cease the breach and make reparation for the injury, they should be stopped and compliance with the obligations concerned should be resumed, this shows the importance of choosing countermeasures that can be reversed.

However this is not an absolute requirement, It may not always be possible to eliminate all the effects of countermeasures after the circumstances that led to their adoption have ceased, this is the meaning of the phrase " as far as possible " in paragraph 03 of article 49, which allows the injured state to choose between countermeasures if it has a chance to resume compliance with the obligations that were suspended as a result of the countermeasures, therefore causing irreparable damage to the state may amount to punishment or sanction for non-compliance.

D. Proportionality

Countermeasures must be proportionate to the injury suffered, taking into account the gravity of the internationally wrongful act and the rights at stake, proportionality represents the relationship between the initial wrongful act and the response to it, in order to stop the resulting harm and to the extent necessary to achieve this purpose, It is proportionality that establishes the legality of the second act by keeping it within the framework of the means required to ensure compliance¹⁵.

The aim of proportionality primarily focuses on safeguarding the rights of the affected state and compelling the violating state to cease the internationally unlawful act and resort to peaceful settlement¹⁶, article 51 of the Draft articles on state responsibility stipulates that countermeasures must be proportionate to the harm suffered.

Therefore this condition provides a degree of assurance because disproportionate countermeasures could lead to liability for the state that implemented them, this principle is well-established in international practice and judicial decisions, including the ruling related to the "Naulila" case in 1928¹⁷, in which the court held that (even if it is accepted that the law of the United Nations does not require an exact balance between the retaliatory measure and the crime, retaliatory measures that are in no way proportionate to the act that prompted their adoption must certainly be considered excessive and therefore illegal)¹⁸.

In this context, the International Law commission has cautioned in its commentary on article 51 of the same draft regarding the responsibility of states that the assessment of proportionality in ensuring that countermeasures do not lead to unfair outcomes should not be limited to considering the purely quantitative element of the damage incurred, Instead it should also take into account " qualitative " factors such as the significance of the interest protected by the violated rule and the severity of the violation, article 51 primarily links proportionality to the suffered damage, but it also considers two other criteria: the seriousness of the unlawful act and the rights involved¹⁹.

E. Suspending countermeasures in compliance with the responsible state's Obligations towards the affected state

Countermeasures must cease as soon as the responsible state complies with its obligations through cessation and redress, In this case there should be no remaining reason to maintain the countermeasures, and they must be terminated immediately.

2- Formal conditions for taking countermeasures

As a continuation of the conditions for countermeasures, article 52 of the same draft added provisions regarding the procedural aspect of their implementation:

A. Request for cessation of unlawful conduct

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It is a requirement for the affected state before resorting to countermeasures, to request the responsible state, pursuant to article 43 of the same draft to fulfill its international obligations under chapter II, The term " request for cessation of unlawful conduct " refers to notifying the state of its unlawful act, urging it to cease it, this serves as a general principle for invoking international responsibility by the affected party.

This condition has been mentioned in many international cases brought before the International court of justice, in the famous Naulila case, the court cited the German doctrine in its decision, which defines reprisals as (an act in which the injured state takes the law into its own hands, an act carried out after a request that has not been fulfilled in response to an act contrary to the law of nations committed by the offending state).

The court considered the response of the German forces as an unlawful act because they did not attempt to settle the dispute initially with the Portuguese authorities and repair the damage caused as a result of the latter's actions²⁰.

In light of article 65 of the Vienna convention on the Law of treaties, it is not required to be in writing and according to article 43, this request may include the conduct that the responsible state should follow to stop the wrongful act, provided that it is itself lawful and also the form that the reparation should take, here recourse is made to the administrative and judicial remedies available to the perpetrator of the wrongful act, especially when it comes to damage affecting foreigners, which requires the injured state to exhaust those remedies under domestic law before taking countermeasures²¹.

Dr. Ben Amer Tunsi has noted in his commentary that the purpose of this rule is to (give the responsible state an opportunity to cease the wrongful act it has caused or to provide appropriate compensation) .

With regard to countermeasures taken by an international organization, article 22 of the draft articles on responsibility of International Organizations provides that international organizations have the right to take countermeasures in response to a wrongful act committed against them, however they may not take such measures until after they have called upon the responsible organization to comply with its obligations²².

B- Notification of the responsible state of countermeasures

The injured state must notify the responsible state of its intention to take countermeasures and offer to negotiate with it, the importance of this condition lies in removing the element of surprise for some countermeasures that are of great importance to the other party such as freezing assets, and in finding a peaceful settlement to their dispute before resorting to those countermeasures.

However despite this condition, the injured state may take some urgent countermeasures necessary to preserve its rights even before any notification of its intention to do so²³.

C- Cases in which countermeasures must be suspended

There are two cases in which the injured state may not take countermeasures:

- If the internationally wrongful act has ceased.
- If the dispute has been submitted to a court or tribunal with jurisdiction to issue binding decisions on the parties.

In the second case the injured state may request the court or tribunal to order provisional measures to protect its rights, this request, which is conditional on the existence of a court or tribunal with jurisdiction to consider it, will serve a function equivalent to that of countermeasures, If the responsible state complies with the provisional measures, there will be no need to take countermeasures until the court or tribunal has issued its decision.

However these two cases are subject to the condition that the responsible state implements dispute settlement procedures in good faith, this may not always be the case, as

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the state may, for example refuse to cooperate with the procedures by failing to appear or to cooperate in the formation of the tribunal, or by failing to comply with provisional measures or refusing to accept the decision of the court or tribunal.

Second axis: restrictions on taking countermeasures

Even though a state may suffer damages as a result of an internationally wrongful act, this does not prevent it from continuing to respect certain obligations towards the responsible state, It is not permissible for the injured state to rely on the responsible state's breach of its obligations towards it in order to deny the illegality of any non-compliance with its own obligations, due to the sanctity of those obligations.

The International Law commission was aware of this issue in article 50 of its final draft on state responsibility, which prohibited countermeasures against the following categories of obligations:

First: the obligations stipulated in the United Nations charter regarding refraining from the threat or use of force.

The aforementioned article 50 in its first paragraph addressed the prohibition of the threat or use of force, thereby excluding coercive measures from the scope of countermeasures, in accordance with the United Nations charter and the declaration of Principles of International Law concerning friendly relations and cooperation among states²⁴, as stated in United Nations General assembly resolution 2625, the General Assembly declared that (states have a duty in their international relations to refrain from the threat or use of force against the territorial integrity or political independence of any state or in any other manner inconsistent with the purposes of the United Nations, such threat or use of force constitutes a violation of international law, and of the United Nations charter, and shall never be resorted to as a means of settling international disputes.)²⁵, this principle has also been affirmed by the security council in numerous resolutions²⁶.

Second: Obligations related to the protection of human rights

article 50 states in its first paragraph that countermeasures must not affect obligations related to the protection of fundamental human rights, the International Law association declared in its 1934 resolution that a state must refrain from any harsh measures that conflict with humanitarian law and with what the human conscience requires.

In the 1928 Naulilaa case the court declared that a legal countermeasure must be determined by humanitarian considerations and the rules of good faith that must be applied in relations between states²⁷, this principle has been further developed as a result of the development of international human rights since 1945, especially those rights contained in human rights treaties, these rights may not be restricted even in times of war or emergency²⁸.

It is worth noting that the committee on economic, social and cultural rights, in its General comment No 08 of 1997, discussed the impact of economic sanctions on civilians especially children, it addressed the impact of measures taken by international organizations or imposed by individual states or groups of states, and stressed that (whatever the circumstances, such sanctions must take full account of the provisions of the International covenant on economic, social and cultural rights), the committee went on to say that (it is essential to distinguish between the primary purpose of exerting political and economic pressure on the ruling elite of a country to induce it to comply with international law and the accompanying suffering of the most vulnerable groups within the targeted country)²⁹.

In light of the above countermeasures may not be used if they are likely to harm individuals or groups that are not involved, as their purpose should not exceed the goal

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of forcing governments that violate their obligations to return to the right path, and to maintain balanced international relations³⁰.

Third: Humanitarian obligations that prevent acts of retaliation in armed conflicts

article 50 paragraph 1 prohibits countermeasures against obligations related to international humanitarian law applicable in international and non-international armed conflicts, which usually take the form of aggressive acts of retaliatory violence against the responsible state in its citizens or territory.

This makes it clear that the legitimacy of combat actions between the warring parties is limited to fighting according to humanitarian rules, which in turn prohibit all acts that violate and harm non-combatants such as civilians, wounded and prisoners.

In light of this determination the injured state cannot resort to countermeasures that affect the rules of international humanitarian law, especially acts of revenge and retaliation against protected persons or the bombing of civilian targets³¹.

The Geneva convention of 1929 on the protection of prisoners of War prohibited acts of retaliation against individuals, and the four Geneva conventions of 1949 and their additional protocols of 1977 also prohibited acts of retaliation against persons and objects protected by them.

Fourth: Obligations arising from peremptory norms of general international law

Article 50 of the 2001 International Law commission draft in its first paragraph reiterates the recognition contained in article 26 of the same draft, namely that the circumstances precluding wrongfulness set out in chapter V of part one do not deprive an act of the state of its character as wrongful if it is not in conformity with an obligation arising from a peremptory norm of general international law, peremptory norms of international law cannot be derogated from by international agreement or by unilateral action in the form of countermeasures taken by the injured state³².

Fifth: Obligations arising from any dispute settlement procedure in force between it and the responsible state

It is a well-established principle of international law that the provisions for dispute settlement between the injured state and the responsible state that are applicable to the dispute between them are not suspended by countermeasures, the phrase in the second paragraph of article 50 refers to dispute settlement procedures that relate to the dispute in question only, and not to those that relate to other issues between the two states that are unrelated to this dispute, on this basis countermeasures may not affect dispute settlement procedures for an internationally wrongful act, this is in line with the principle that the provisions for dispute settlement between the injured state and the responsible state that are applicable to the dispute between them may not be suspended by counter measures³³.

The International court of Justice affirmed this in the case of United states diplomatic and consular staff in Tehran stating that (any alleged breach of the treaty of amity by either party cannot debar that party from invoking the provisions of the treaty concerning the settlement of disputes by peaceful means)³⁴.

Sixth: Obligations related to the protection of the inviolability of diplomatic or consular representatives, premises, archives or documents

This exception in paragraph 02 of article 50 limits the extent to which the injured state may resort to countermeasures in a manner that does not comply with its obligations in the field of diplomatic or consular relations, which could affect the inviolability of diplomatic or consular personnel, their premises, archives or diplomatic or consular documents³⁵.

There are functional justifications for excluding countermeasures that affect the inviolability of diplomatic and consular representatives, without this prohibition, these officials would effectively be hostages residing abroad for the wrongs of their state, which

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would undermine diplomatic and consular relations between states, this was pointed out by the International court of justice in the 1980 case of United states diplomatic and consular staff in Tehran, which emphasized that diplomatic law itself provides the necessary means of defense against unlawful activities by members of diplomatic or consular missions and the sanctions imposed on them, the court concluded that violations of diplomatic or consular immunities cannot be justified even as countermeasures in response to an internationally wrongful act committed by the sending state³⁶.

Third axis: International practice on countermeasures

First: examples of countermeasures

Countermeasures can be taken individually or collectively.

1- Individual countermeasures

There are many examples of individual countermeasures in international practice, one example is the action taken by the United states against Uganda in October 1978 the US Congress passed a law prohibiting the export or import of goods and technology to Uganda on the grounds that the Ugandan government had committed genocide against its own people, the US argued that it had a duty to distance itself from any foreign government involved in international genocide³⁷.

The United states also used countermeasures against France following the French-American dispute that was decided by the arbitration tribunal on 09 December 1978, the US airline Pan Am suffered significant losses as a result of the French authorities preventing the company from unloading its cargo between Paris and California, this led the US to cancel all scheduled and future flights between Paris and California.

In another case, the United states imposed economic sanctions on Poland after the imposition of martial law there³⁸.

Perhaps the most important case that is still on the international scene is the Russian invasion of Ukraine on 24 February 2022, This gives Ukraine the right to take countermeasures as the injured party as a result of Russia's breach of an international obligation, namely the maintenance of international peace and security by committing the crime of aggression.

2- Collective Countermeasures

One of the most famous cases of collective countermeasures is the oil embargo of October 1973, this embargo was imposed in response to the Arab-Israeli war of 06 October, 1973, which was fought between Egyptian and Syrian forces on the one hand and the Israeli occupation army on the other hand the aim of the War was to regain the Arab territories occupied in 1967, in the midst of this War, Arab states began to use oil as a means of deterring Israel and its allies, on 17 October 1973 they imposed an oil embargo as a countermeasure to force Israel to withdraw from the occupied Arab territories, they also reduced oil production by 25%.

Another example of collective countermeasures is the case of South Africa in 1985 south Africa declared a state of emergency, in response the United states following the recommendations of the security council imposed an economic embargo on south Africa and froze cultural and sporting relations between the two countries³⁹, some countries then took measures that went beyond the recommendations of the security council⁴⁰.

In another example following the Iraqi invasion and occupation of Kuwait in August 1990, the security council immediately condemned the invasion, the United states together with European countries, imposed a trade embargo on Iraq and froze its assets abroad⁴¹.

In the midst of the humanitarian crisis in Kosovo, the member states of the European Union enacted legislation freezing Yugoslav assets and immediately imposing a no-fly zone, Britain justified its termination of the air agreement between it and Yugoslavia by

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saying that (President Milosevic's deteriorating human rights record means that his government has morally and politically forfeited its right to insist on the twelve-month notice period, that would normally apply under article 17 of the agreement between Yugoslavia and Britain)⁴²,

perhaps the most important current example of collective countermeasures is the measures taken by many European countries and the United States against Russia after its invasion of Ukraine.

At the United Nations level there are several cases in which the security council has issued countermeasures against violations of international obligations, one example is the aforementioned case Under security council resolution 787 of 16 November 1992, a naval blockade and economic embargo was imposed on Yugoslavia in order to force it to stop the various War crimes and genocide committed by the Serbs against the Bosnians, the same measure was used against Libya under resolution 748 of 31 March 1992 following Libya's failure to comply with US and British demands to cooperate in the investigation and extradition of suspects involved in the bombing of Pan Am Flight 103 over Lockerbie, Scotland on 21 December 1988⁴³.

Second: consequences of countermeasures

International practice on countermeasures has both positive and negative aspects.

1- Positive consequences of countermeasures

Countermeasures have many positive aspects, including:

- Countermeasures are an effective way to condemn the perpetrator of an internationally wrongful act if peaceful settlement methods through direct negotiations or mediation have been exhausted, they can also be used to stop the harm and force the offender to respect its obligation to guarantee performance.
- Countermeasures are an effective way to ensure respect for the principles of international law and international obligations.
- Countermeasures work to restore the situation to its natural state, the pressure exerted by states on the state committing the wrongful act contributes to respect for the rules of international law.
- The weakness of international courts in resolving international disputes due to their political considerations, length of time and multiplicity of procedures.
- The failure of international organizations especially the United Nations to resolve international disputes, especially those related to the security council which is paralyzed by the veto power, has pushed states to act alone.
- The inability of the United Nations to intervene to resolve many international disputes including the Israeli occupation of Palestine and the current crimes in the Gaza Strip⁴⁴, as well as the crimes committed in the civil War in Sudan, the failure of the security council to issue a resolution condemning the Russian-Ukrainian War also pushes states to act alone, this makes countermeasures the most effective means, the paralysis of collective action at the international level pushes states to act alone.

In the same context professor Bokra Idris believes that the international community in its quest to be a community of law, should find a solution to the conflicts and contradictions between its members through law, however legal means are not always practical and do not take priority over other means, therefore resorting to economic pressure is a middle ground between resorting to legal means of settling disputes (judicial and diplomatic means) and resorting to armed force, which is not desired due to the general

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prohibition on the use of force and its concentration by the United Nations except in cases of legitimate self-defense⁴⁵.

2- Negative consequences of countermeasures

Countermeasures are not without their drawbacks, the most important of which are:

- Countermeasures can be a source of tension between states as they disrupt the international legal system by being hostile acts that affect international relations, and may lead to armed confrontation.
- Countermeasures can be dangerous ,and can affect vulnerable groups in society such as children, women, and the elderly.
- Countermeasures are subject to political considerations, even if they appear to be legal on the surface, this is confirmed by the measures taken against third world countries especially Arab countries such as Iraq, Libya, and Yemen, etc.
- countermeasures are used to achieve political goals, they will lose the cover of legitimacy provided by the initial wrongful act. they will then become a subsequent wrongful act that could give rise to the responsibility of the perpetrator, whether the initial act was directed against a personal right or an objective right⁴⁶ .

Conclusion:

After studying the topic of countermeasures in response to Internationally wrongful act I have reached a set of conclusions, which are followed by a number of suggestions.

First: conclusions

- The use of countermeasures is subject to strict conditions and restrictions established by the International Law commission.
- Countermeasures are an effective tool for stopping unlawful acts and resolving international disputes peacefully, allowing states to protect their own interests.
- Countermeasures whether taken individually or collectively have been successful in resolving many international disputes.
- Countermeasures are used as a means of pressure, acting as a weapon for states to defend themselves and their interests when international organizations and international courts fail to do so.
- The application of countermeasures especially collective ones is subject to political forces in the international community, through international decisions made within international organizations.
- Powerful states use countermeasures as a pretext to legitimize their unlawful actions against weaker states, or those that do not align with their policies dictated by their own interests.

Second: suggestions

- It is necessary to address internationally wrongful acts by taking countermeasures especially in their collective form, through international organizations led by the United Nations.
- The application of countermeasures dictated by the interests of major powers should be avoided.
- The United Nations should be reformed, especially with regard to the veto power within the security council.
- Human rights and the rules of international humanitarian law must be taken into account when taking countermeasures.

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¹⁹- Yearbook of the International Law commission 2001, op.cit., p. 175.

²⁰- Al-Husseini Zoheir, op.cit, p 37.

" Countermeasures in response to Internationally wrongful act "

²¹ - Ibid.

²² - Ben Amer, Tounsi, op.cit, p 360.

²³ - Article 46 of the draft articles on responsibility of states for Internationally wrongful acts.

²⁴ - Semati, Hakima, " the legal system of countermeasures related to wrongful acts (a comparative study between the International Law commission's draft on International responsibility of 2001 and the world trade organization) ", Annals of the university of Algiers, volume 35, number 04, 2021, p 13.

²⁵ - Resolution 2625, declaration of principles of International Law concerning friendly relations and cooperation among states in accordance with the charter of the United Nations 25th session, 24 October 1970, document A/Res/2625, pp. 315, 316.

²⁶ - International Law Commission Yearbook 2001, op. cit, p 171.

²⁷ - Ibid, p 171.

²⁸ - See Article 4 of the 1966 International Covenant on Civil and Political Rights.

²⁹ - International Law Commission Yearbook 2001, op. cit, p 171.

³⁰ - Al-Khalayleh Yasser Yousef, Al-Tarawneh Mokhaled Arkhi's, op. cit, p 274.

³¹ - Amimeur Naema, " the General theory of state International responsibility in the light of the New codification ", office of university publications, Ben Aknoun-Algeria, 2001, 229.

³² - Semati, Hakima, op. cit, p 13.

³³ - International Law Commission Yearbook 2001, op.cit, p 173.

³⁴ - Semati, Hakima, op.cit, p 15.

³⁵ - Barakat Riad, Messaika Mohamed El-Saghir, op.cit, p 65.

³⁶ - see also:

- Summary of Judgments, advisory Opinions and Orders of the International court of justice 1948-1991, op.cit, p 140 et seq.

- Yearbook of the International Law commission 2001, op.cit, p 173.

³⁷ - Ibid., p 178.

³⁸ - Zaz Lakhdar, " the rules of International responsibility in the light of the rules of public International Law ", a study supported by examples, judicial precedents and the work of the International Law commission, Dar Al-Huda, Ain Mlila Algeria, 2011. p 615.

³⁹ - Security council resolution 569/1985, meeting 2602, 26 July 1985, document number (1985), S/RES/569, pp 15, 16.

⁴⁰ - Roderick Elia Abi Khalil, " International economic sanctions in International Law between effectiveness and human rights ", Al-Halabi legal publications, Beirut-Lebanon, first edition, 2009, pp 101, 102.

⁴¹ - Security council resolution 661/1990, meeting 2933, 09 August 1990, document number (1990) S/RES/661, p 53.

⁴² - Yearbook of the International Law commission 2001, op.cit, p 173.

⁴³ - Zaz Lakhdar, op.cit, pp 616, 617.

⁴⁴ - which constitute war crimes, crimes against humanity, genocide, and the crime of aggression.

⁴⁵ - Hathtati Mohamed, p 87.

⁴⁶ - Al-Husseini Zoheir, op.cit, p 35.