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Legal and Practical Impacts of Economic Sanctions on the Performance of International Commercial Contracts

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Abstract
In the contemporary international business environment, economic, trade, and financial sanctions have become important instruments of political and economic pressure. Their effects extend beyond inter-state economic relations and increasingly affect the performance of international commercial contracts, including payment obligations, banking transactions, transportation, insurance, delivery of goods, and the economic balance between contracting parties. This study examines the legal and practical impacts of sanctions on the performance of international commercial contracts, with particular attention to contractual obligations, financial commitments, economic equilibrium, and the possibility of suspension, adaptation, or termination of contracts. The study employs a library-based, analytical, and comparative approach and examines relevant international legal principles, commercial rules, contractual mechanisms, and practical cases. The findings indicate that sanctions may create external legal and practical impediments to contractual performance, particularly through restrictions on banking and financial transactions, transportation, ports, and insurance. However, the existence of sanctions does not automatically constitute force majeure or hardship. Their legal effect depends on factors such as foreseeability, control, the nature and timing of the restriction, the availability of lawful alternatives, and the allocation of contractual risks. The study concludes that sanctions-specific clauses, clear force majeure and hardship provisions, renegotiation and adaptation mechanisms, lawful alternative payment and transportation arrangements, and appropriate risk-allocation mechanisms are essential for managing sanctions-related contractual risks and maintaining contractual stability.

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1. Introduction

International commercial contracts are fundamental instruments for regulating cross-border transactions involving the sale of goods and services, payment, transportation, insurance, investment, and other commercial activities. They establish the rights and obligations of contracting parties, allocate commercial risks, and provide mechanisms for addressing non-performance and disputes. Although the principle of *pacta sunt servanda* provides stability and predictability in international commerce, contractual performance may be affected by exceptional circumstances arising after the conclusion of a contract (CISG, 1980, Art. 79; UNIDROIT, 2016, Arts. 1.3, 6.2.1–6.2.3, 7.1.7).

Among such circumstances, economic and financial sanctions have become an increasingly important source of contractual uncertainty. Sanctions may be imposed by the United Nations, states, or regional organizations and may restrict trade, financial transactions, banking services, transportation, insurance, investment, or access to assets. Their effects may therefore extend

beyond the directly targeted parties and disrupt contractual performance through banks, insurers, carriers, and other commercial intermediaries (United Nations, 1945, Art. 41; OFAC, 2026).

A major legal problem arises when sanctions are imposed after a contract has been concluded and make contractual performance unlawful, impossible, significantly more difficult, or substantially more expensive. For example, restrictions on a bank may prevent contractual payment, while sanctions affecting vessels, ports, transportation routes, or insurers may delay delivery or increase performance costs. These circumstances raise questions concerning the continuing liability of the affected party and the availability of legal remedies such as exemption, suspension, renegotiation, adaptation, or termination.

The CISG provides an important framework for addressing impediments to contractual performance. Article 79 establishes, subject to its conditions, an exemption from damages where failure to perform results from an impediment beyond the party's control that could not reasonably have been foreseen, avoided, or overcome. Similarly, the UNIDROIT Principles distinguish between *force majeure*, where an external impediment prevents or materially obstructs performance, and *hardship*, where performance remains possible but the contractual economic equilibrium is fundamentally altered (CISG, 1980, Art. 79; UNIDROIT, 2016, Arts. 6.2.2–6.2.3, 7.1.7).

Importantly, sanctions do not automatically constitute either force majeure or hardship. Their legal effect depends on factors including the timing and nature of the sanction, foreseeability, and the specific obligation affected, the availability of lawful alternatives, the possibility of obtaining authorization or licenses, and the allocation of sanctions-related risks under the contract. Thus, the same type of sanction may produce different legal consequences depending on the contractual and factual circumstances.

Sanctions may also disrupt the economic balance of a contract without making performance legally impossible. Increased banking, transportation, insurance, and procurement costs may substantially change the conditions under which the parties originally agreed to perform. In such circumstances, contractual renegotiation, adaptation, suspension, or other agreed mechanisms may provide more appropriate responses than immediate termination. Accordingly, clear sanctions clauses, force majeure and hardship provisions, notification requirements, alternative payment mechanisms, and dispute-resolution arrangements are important tools for managing sanctions-related contractual risks (ICC, 2020).

The practical relevance of this issue is evident in international commercial relations involving Russia, Iran, and Afghanistan. Sanctions and related financial restrictions have affected banking, payment systems, transportation, trade, and insurance in different ways. The Afghan context is particularly important because the country is not subject to a comprehensive country-wide U.S. sanctions embargo, although designated persons and entities remain subject to applicable sanctions and financial institutions face significant compliance considerations. These circumstances demonstrate the need to distinguish between comprehensive, targeted, and authorized sanctions when assessing contractual obligations (OFAC, 2026).

Despite the growing importance of sanctions in international commerce, the legal relationship between sanctions and contractual performance remains complex. Existing literature has examined sanctions clauses, force majeure, hardship, banking restrictions, and private-law consequences separately, but comparatively less attention has been given to an integrated analysis of how sanctions affect the performance, payment, transportation, insurance, economic equilibrium, and contractual remedies of international commercial contracts, particularly from the perspective of the combined legal frameworks applicable to international trade. Accordingly, this study examines how economic and financial sanctions affect the legal performance of international commercial contracts and the rights and obligations of contracting parties. It specifically analyzes their effects on payment and banking obligations, transportation and insurance, contractual economic equilibrium, force majeure and hardship, and the possible use of renegotiation, adaptation, suspension, and termination as legal responses. The study further considers how contractual risk-allocation mechanisms can improve legal certainty and reduce disputes arising from sanctions-related impediments.

2. Literature Review

In international legal literature, the relationship between economic sanctions and international commercial contracts has been studied from different angles. Da Silveira (2017), in Economic Sanctions and Contractual Disputes between Private Operators, reviewed the effect of economic sanctions on private contractual relations and the legal problems that arise before courts and enforcement agencies due to sanctions. The main focus of this study is how economic sanctions are classified from the point of view of private rights and how they can affect the legal status of contractual obligations (da Silveira, 2017; Asada, 2021) [3].

Kotelnikov (2020) [9] then discussed the legal status of contracts in the light of economic sanctions, especially sanctions against Russia, and investigated the issue of when sanctions can affect the validity of a contract and when they can be interpreted as an exemption or obstacle to the non-performance of contractual obligations. Similar to da Silveira's discussion is that both explore the relationship between sanctions and private contractual liability; But Kotelnikov's discussion focuses relatively more on the practical legal experience of Russia and mutual sanctions (Kotelnikov, 2020; Goode, 2013) [9, 6].

Malloy (2022) [11] in Contracts and Economic Sanctions has analyzed the legal interaction between contracts and economic sanctions from a broad legal perspective. His discussion shows that sanctions are not only a matter of public international law, but also directly related to the legal issue of private contracts, contractual liability, and contract enforcement. His work is important for this research because it analyzes the impact of sanctions at the level of the legal relationship of the contract, but it has not provided a detailed comparison between force majeure, hardship, and sanctions clauses of international commercial contracts in a single analytical framework like this research (Malloy, 2022; Marossi & Bassett, 2015; Asada, 2021) [11,12, 3].

Starzhenetskiy and Bagrova (2023) [13] have evaluated specific sanctions clauses in Anti-Sanctions Clauses in International Commercial Contracts. They argue that sanctions clauses are not just substitutes for force majeure, but provide special legal mechanisms for sanctions compliance, contract enforcement, allocation of risk and cost, contract modification, and, in some cases, contract

termination. Their work is of particular importance to this study because, in addition to the direct impact of sanctions, it also raises the issue of pre-setting the risk of sanctions by contractual parties (Starzhenetskiy & Bagrova, 2023; Happold, 2016) [13, 7].

In recent literature, Eller (2026) analyzed the subject of economic sanctions from private and international private law and argued that contemporary sanctions are not only a tool of foreign policy of states, but also change the structure of private commercial relations, contracts, and international private law. Eller's discussion takes a broader legal perspective than previous studies and analyzes sanctions as an interaction between public and private rights (Eller, 2026; Asada, 2021; Amin & Akhtar, 2026; Akhtar & Amin, 2025) [3, 2,1].

Asada (2021) [3] also analyzed suspension, termination, and renegotiation of sanctions clauses in EU-Gulf trade contracts. He argues that sanctions clauses should be considered separately from force majeure, because sanctions do not always make the execution of the contract completely impossible, and in some cases, they cause payment delays, the risk of re-exports, legal restrictions, or increased compliance costs. This view is closely related to the topic of this research and shows the need for different legal solutions against different levels of sanctions (Asada, 2021; Amin & Akhtar, 2026; Akhtar & Amin, 2025) [3, 2, 1].

2.1. Economic Sanctions and Their Legal Nature

Previous studies have analyzed economic sanctions as instruments of pressure employed by states and international organizations to achieve political, security, and economic objectives. Some authors examine sanctions from the perspective of public international law and within the framework of the UN Security Council's mandate, while others analyze them based on domestic laws and unilateral sanctions. There is a consensus in the literature that the legal effect of sanctions depends on their source, objective, scope, and the applicable law; however, much of the existing research focuses on the general legal nature of sanctions and offers only limited analysis regarding their impact on the performance of private international contracts (United Nations, 1945; da Silveira, 2017; Malloy, 2022) [11].

2.2. Economic Sanctions and International Commercial Contracts

A significant portion of prior legal research evaluates how economic sanctions affect the rights and obligations arising from private commercial contracts. Da Silveira (2017) argues that sanctions can lead to contractual disputes, particularly when a party is unable to fulfill its obligations due to the sanctions. Malloy (2022) [11] explores this relationship more broadly, noting that sanctions are not merely a legal matter between states but also impact issues concerning the validity, performance, and liability associated with private contracts. A common theme in both studies is the issue of contractual liability, though a detailed comparison of the direct and indirect economic impacts of sanctions remains limited (da Silveira, 2017; Malloy, 2022; Amin & Akhtar, 2026) [11, 2].

2.3. Sanctions and Force Majeure

A significant topic in international commercial law is whether sanctions can be classified as *force majeure*. Existing literature indicates that the mere existence of sanctions is insufficient to establish *force majeure*; rather, the sanction must be beyond the contracting party's control, reasonably unforeseeable at the time of contracting, and must either prevent the performance of the obligation or render it legally impossible. Under Article 79 of the CISG and Article 7.1.7 of the UNIDROIT Principles, the ability to control, foresee, and avoid the impediment serves as the fundamental criterion for assessing liability (CISG, 1980, Art. 79; UNIDROIT, 2016, Art. 7.1.7). While prior research agrees on the legal conditions in this area, the comparison of judicial and arbitral applications regarding sanctions and *force majeure* still requires further analysis.

2.4. Economic Sanctions and Hardship

Some studies evaluate sanctions not only from the perspective of the impossibility of performance but also in terms of the alteration of the contract's economic balance. If sanctions cause an extraordinary increase in the costs of banking, transport, insurance, or other services, the contract may remain enforceable but become excessively burdensome for one party. Under Articles 6.2.2–6.2.3 of the UNIDROIT Principles, such circumstances may give rise to issues of hardship, renegotiation, and contract adaptation (UNIDROIT, 2016). A key takeaway from the literature is that *force majeure* centers on the concept of "impossibility," whereas hardship centers on "economic imbalance"; however, in the specific context of sanctions, the practical criteria for distinguishing between these two legal concepts remain a subject of debate. Sanctions-related uncertainty may also affect broader international investment and commercial decision-making. Organizations operating across jurisdictions may need to reassess investment opportunities, resource allocation, and strategic alternatives when external conditions become uncertain or materially change. Recent research on international investment under uncertainty emphasizes the importance of incorporating risk and strategic flexibility into such decision-making processes (Tasleem *et al*., 2026) [15].

2.5. Sanctions Clauses in International Commercial Contracts

Recent studies have also examined the importance of incorporating sanctions clauses into contract texts. Starzhenetskiy and Bagrova (2023) [13] note that sanctions clauses can pre-define the terms for suspending, modifying, renegotiating, or terminating a contract in the event that sanctions are imposed. This perspective differs from *force majeure*, as a sanctions clause serves as a mechanism for the parties to allocate risk in advance, rather than merely a plea for legal exemption. Thus, existing literature emphasizes the importance of the *ex-ante* regulation of contractual risk; however, analysis of the shared legal framework connecting sanctions clauses, *force majeure*, and hardship remains limited (Starzhenetskiy & Bagrova, 2023; ICC, 2020) [13].

2.6. Sanctions, Banking Restrictions and Payment Obligations

Another significant topic of discussion concerns the restrictions placed on banking transfers and financial obligations due to sanctions. International commercial contracts rely heavily on services provided by banks, correspondent banking networks, letters of credit, and other financial mechanisms. When sanctions restrict a bank, financial institution, currency, or payment system, the contractual payment obligation may face both legal and

practical challenges. Previous studies indicate that the assessment of non-payment must be based on the terms of the contract, applicable sanctions laws, the bank's legal obligations, and the feasibility of alternative payment methods. In this context, research concerning sanctions clauses and letters of credit is of particular importance (Lupton, 2022; Malloy, 2022; Akhtar & Amin, 2025) [10, 11, 1].

2.7. Sanctions and Transportation, Insurance, and Supply Chains

Economic sanctions do not merely restrict banking transactions; they also impact other aspects of international commercial contract performance, such as shipping, transportation, insurance, and supply chains. Restrictions targeting vessels, ports, insurers, or freight carriers can lead to delays in the delivery of goods or result in additional costs. Consequently, some studies argue that the legal impact of sanctions should not be assessed solely based on the primary contractual obligation, but also by considering the third-party services essential for the contract's execution (da Silveira, 2017; ICC, 2020; Akhtar & Amin, 2025) [1].

2.8. Sanctions, Contractual Risk Allocation, and Remedies

The issue of risk allocation regarding sanctions is also significant in international commercial contracts. Previous studies indicate that if a contract clearly specifies which party bears the risk of sanctions, the legal resolution of disputes can be relatively straightforward. Conversely, if the contract lacks an explicit provision regarding sanctions, courts or arbitral tribunals are compelled to resolve the matter based on applicable law, *force majeure*, hardship, and general principles of contract law. Various legal remedies—such as suspension, renegotiation, adaptation, termination, and damages—have been proposed in this context (Kotelnikov, 2020; Starzhenetskiy & Bagrova, 2023; Franko, 2026) [13, 9].

A review of existing studies reveals that most research either examines the general legal nature of economic sanctions or focuses narrowly on specific aspects such as *force majeure*, hardship, sanctions clauses, banking restrictions, or the experiences of particular countries. A common gap across these studies is the lack of a unified analytical framework that integrates the direct and indirect impacts of sanctions on international commercial contracts—specifically regarding financial obligations, the delivery of goods, the economic balance of the contract, *force majeure* and hardship, and the legal avenues for contract suspension, modification, and termination. Therefore, the present study aims to examine these issues within a systematic legal-analytical framework, drawing upon the CISG, UNIDROIT Principles, ICC contractual standards, and contemporary sanctions regimes.

3. Methodology

Given the legal and analytical nature of the subject matter, this study employs documentary (library-based), analytical, and comparative methodologies. Relevant information has been gathered from legal treatises, scholarly articles and research works, international legal instruments, international commercial principles, contractual rules, and official legal sources concerning sanctions. Particular attention has been paid to the UN Charter, the CISG, the UNIDROIT Principles, the ICC Force Majeure and Hardship Clauses, and the legal and regulatory documents regarding sanctions issued by relevant states.

Under the documentary methodology, legal and scholarly information regarding economic and financial sanctions, international commercial contracts, contract performance, contractual liability, *force majeure*, hardship, sanctions clauses, and the suspension, modification, and termination of contracts has been collected, classified, and organized. In this regard, alongside international legal and commercial sources, authoritative scholarly works in Pashto, Dari, Arabic, and English have been utilized. Furthermore, to ensure a precise analysis of legal rules, reference has been made to international conventions, official legal documents, and publications from relevant international and national legal institutions.

Under the analytical methodology, the collected information is not merely presented descriptively; rather, the legal relationship between sanctions and contractual obligations is evaluated through an analytical lens. Specifically, the study examines the legal criteria to be considered when determining contractual liability in situations where the performance of a contract by one or both parties is impeded by sanctions. Furthermore, the legal consequences of non-performance, delay, liability for damages, and the renegotiation or modification of the contract are analyzed in light of Article 79 of the CISG, Articles 6.2.2–6.2.3 and 7.1.7 of the UNIDROIT Principles, and contractual rules regarding *force majeure* and hardship.

The analysis also takes into account that not every sanction automatically constitutes *force majeure* or hardship; rather, factors such as the nature of the sanction, the timing of its imposition, foreseeability at the time of contracting, the degree of control exercised by the party, the causal link between the impediment and non-performance, the availability of alternative means of performance, and the allocation of risk under the contract must be evaluated individually.

A comparative approach is used to examine various types of sanctions and their respective legal and practical effects. In particular, economic, commercial, and financial sanctions are evaluated regarding their potential impact on the performance of international commercial contracts, banking and financial obligations, the shipment of goods, insurance, transport, and the continuation of contractual relationships. Furthermore, a comparison is drawn between the legal concepts of *force majeure* and hardship—including the relevant rules under Article 79 of the CISG and the UNIDROIT Principles—as well as between general legal exemptions and specific sanctions clauses. The aim of this comparison is to determine which legal mechanism is appropriate for addressing impediments arising from sanctions.

To strengthen the practical dimension of the study, real-world incidents and legal experiences from international commercial and financial relations have been utilized. Examples of sanctions involving Russia, Iran, and Afghanistan are examined to illustrate how sanctions can impact banking payments, transport, insurance, the delivery of goods, financial obligations, and the economic balance of international contracts. The purpose of these examples is not to assess the political situations of specific countries, but rather to provide practical evidence for the legal analysis of the contractual effects of sanctions.

In analyzing the data, key criteria—alongside contract stability and the performance of contractual obligations—include good faith, risk allocation, the protection of legitimate economic interests, reasonableness, foreseeability,

and the possibility of preventing or overcoming the impediment. Furthermore, the principle is observed that liability for non-performance of a contract must be determined based on the specific legal and factual circumstances of each case, rather than solely on the existence of sanctions. Based on the research findings, legal and practical mechanisms are proposed that parties to international commercial contracts can employ to safeguard their contractual relationships against the potential impact of sanctions. This section evaluates the importance of clear sanctions clauses, *force majeure* and hardship clauses, alternative payment and transport routes, renegotiation, contract modification or suspension, proper notification, and effective dispute resolution mechanisms.

4. Results

The findings indicate that economic sanctions can affect international commercial contracts through multiple interconnected channels, particularly contractual performance, payment, banking, transportation, insurance, and the economic balance of contractual obligations. The results further show that the legal consequences of sanctions depend on the nature and timing of the restriction, the contractual allocation of risk, the foreseeability of the event, and the availability of reasonable alternatives for performance.

4.1. Nature and Types of Sanctions and Their Contractual Effects

The findings show that sanctions may take different forms, including trade, financial and banking, investment, transportation, and other economic restrictions. Each type can affect a different component of an international commercial contract. Trade restrictions may prevent the export, import, or delivery of contractual goods. Financial and banking restrictions may obstruct payments and other financial obligations. Transportation restrictions may delay or prevent delivery, while insurance restrictions may increase the risks and costs associated with the movement of goods. Therefore, the contractual impact of sanctions cannot be determined merely by establishing that a sanction exists. It is necessary to identify the specific contractual obligation affected and determine whether lawful and commercially reasonable alternatives remain available.

Table 1: Types of Sanctions and Their Potential Contractual Effects

Type of Sanction	Main Contractual Area Affected	Potential Effect
Trade sanctions	Import, export, and delivery of goods	Delay or non-performance
Financial/banking sanctions	Payments and financial transfers	Payment obstruction or delay
Transportation sanctions	Ships, ports, and transport routes	Delivery disruption and increased costs
Insurance restrictions	Cargo and transportation insurance	Increased risk and additional costs
Investment restrictions	Investment and financing	Difficulty in financing contractual obligations

4.2. Impact of Sanctions on Contractual Performance

The findings demonstrate that contractual performance depends not only on the willingness and capacity of the contracting parties but also on external services necessary for performance. Banking, transportation, insurance, customs clearance, and other commercial services may form an essential part of the performance chain. Where a sanction legally prevents a party from performing its contractual obligation, the issue becomes one of legal and practical impossibility rather than simple unwillingness to perform. However, where performance remains possible through a lawful and reasonable alternative, non-performance cannot automatically be justified by the existence of sanctions. The results therefore identify three principal questions for determining the effect of sanctions on performance: whether performance remains legally possible, whether a reasonable alternative exists, and whether the affected party could reasonably have anticipated or avoided the consequences.

Table 2: Sanctions and Contractual Performance

Situation	Effect on Performance	Main Legal Consideration
Goods are legally prohibited from export	Delivery may become impossible	Legality and impossibility
Payment channel is blocked	Payment may be delayed or prevented	Availability of lawful alternatives
Transport route is restricted	Performance may be delayed	Alternative routes and costs
Performance remains possible but more expensive	Economic burden increases	Contractual risk allocation
Multiple lawful alternatives exist	Performance may continue	Duty to consider reasonable alternatives

4.3. Financial and Banking Restrictions

Financial and banking restrictions constitute one of the most significant findings of the study. International commercial contracts frequently depend on banking channels for payment, credit facilities, guarantees, documentary transactions, and other financial obligations. Consequently, restrictions affecting banks or payment systems can disrupt contracts even when the parties remain financially capable of performing their obligations. The findings also indicate that the existence of sufficient funds does not necessarily mean that a payment obligation can be performed. The relevant question is whether the payment can be made through a lawful, accessible, and commercially reasonable financial channel.

Table 3: Effects of Financial and Banking Restrictions

Banking Situation	Contractual Consequence	Possible Response
Payment channel becomes unavailable	Payment delay	Identify lawful alternative channel
Bank refuses a transaction because of sanctions compliance	Financial obligation disrupted	Consider alternative compliant arrangements
Alternative payment channel is available	Performance may continue	Use lawful alternative
All reasonable payment channels are blocked	Performance may become legally or practically impossible	Assess contractual exemption or termination
Payment remains possible but costs increase substantially	Economic balance may change	Renegotiation or contractual adjustment

4.4. Transportation, Logistics, and Insurance Effects

The findings show that sanctions may extend beyond the direct relationship between the buyer and seller and affect the wider logistics chain. Restrictions on ports, vessels, transportation routes, carriers, and related services can delay delivery and increase transportation costs. Insurance is similarly important because international transportation frequently depends on insurance coverage for cargo, vessels, and transportation risks. Where sanctions create difficulties in obtaining or maintaining insurance, the contractual risks associated with transportation may increase significantly. The results therefore indicate that transportation and insurance should be treated as important components of contractual risk management rather than as purely secondary commercial matters.

Table 4: Transportation and Insurance Effects

Area	Potential Impact	Contractual Response
Port restrictions	Delivery delay	Alternative port
Vessel restrictions	Transportation disruption	Alternative carrier or vessel
Route restrictions	Increased time and cost	Alternative route
Insurance limitations	Increased transportation risk	Alternative lawful insurance
Extended delivery period	Failure to meet contractual deadline	Extension or adjustment of delivery period

4.5. Economic Imbalance and Hardship

A significant finding is that sanctions do not always make contractual performance impossible. In some cases, performance remains legally possible but becomes substantially more expensive or commercially burdensome. Sanctions may increase the cost of transportation, insurance, banking services, alternative suppliers, and alternative payment mechanisms. When these additional burdens fundamentally alter the economic balance of the contract, the issue becomes one of contractual adaptation rather than complete non-performance. The findings suggest that renegotiation, adjustment of contractual prices, redistribution of additional costs, modification of delivery arrangements, or extension of contractual periods may provide more appropriate solutions than immediate termination.

Table 5: Sanctions and Economic Imbalance

Change Caused by Sanctions	Effect on Contract	Potential Solution
Significant increase in transportation costs	Higher performance cost	Cost-sharing or price adjustment
Increased insurance costs	Higher contractual burden	Adjustment of risk allocation
Higher banking costs	Increased payment costs	Renegotiation
Alternative supplier required	Change in procurement conditions	Contractual adaptation
Significant delay in delivery	Disruption of contractual timetable	Extension of time

4.6. Sanctions, Force Majeure, and Hardship

The results establish an important distinction between force majeure and hardship in the context of sanctions. Sanctions may potentially constitute a force majeure event where they create an external obstacle that prevents contractual performance and the relevant conditions for force majeure are satisfied. However, the mere existence of a sanction does not automatically release a party from its contractual obligations. Where performance remains possible but the economic burden of performance changes substantially, the circumstances may instead raise a hardship issue. Accordingly, the legal characterization of sanctions should depend on the actual effect of the restriction rather than on the label attached to the event.

Table 6: Distinction between Force Majeure and Hardship

Criterion	Force Majeure	Hardship
Performance	Prevented or seriously obstructed	Remains possible
Main problem	Impossibility or substantial impediment	Fundamental economic imbalance
Typical consequence	Exemption, suspension, or other contractual remedy	Renegotiation or adaptation
Importance of alternatives	Very high	Important
Termination	May arise under applicable law or contract	Generally considered after adaptation mechanisms fail

4.7. Suspension, Adaptation, and Termination of Contracts

The findings indicate that sanctions may create circumstances requiring the suspension, adaptation, or termination of a contract. These remedies should not be treated as interchangeable; rather, their appropriateness depends on the nature and severity of the sanction and its effect on contractual performance. Temporary restrictions may justify suspension where performance can resume after the restriction is removed. Where performance remains possible but the contractual equilibrium has been substantially altered, renegotiation and adaptation may be more appropriate. Termination becomes more relevant where the essential contractual performance has become legally impossible or where no reasonable alternative exists. The results therefore support a graduated approach: alternative performance → renegotiation/adaptation → suspension or termination where necessary.

Table 7: Possible Contractual Responses to Sanctions

Circumstance	Preferred Initial Response	Possible Further Response
Temporary restriction	Suspension	Resume performance
Alternative lawful route available	Alternative performance	Contract continuation
Major increase in costs	Renegotiation	Contract adaptation
Delivery significantly delayed	Extension of time	Suspension or adaptation
Essential performance becomes unlawful	Stop prohibited performance	Termination where legally justified
No reasonable alternative exists	Assess contractual exemption	Termination where applicable

4.8. Russia and Afghanistan: Practical Findings

The Russian case demonstrates how sanctions can simultaneously affect the financial and logistical dimensions of international commercial contracts. Restrictions affecting selected Russian financial institutions created difficulties for international financial transactions, while restrictions concerning Russian vessels and access to certain ports affected transportation arrangements. The Afghanistan case demonstrates a different but related problem. Difficulties in international banking relationships, payment channels, compliance requirements, and financial risk management can make international payments more difficult even where commercial transactions are not universally prohibited. These cases demonstrate that sanctions-related contractual disruption is not limited to the direct prohibition of a particular transaction. It may also arise indirectly through financial institutions, payment systems, transportation providers, insurers, and other commercial intermediaries.

Table 8: Comparative Findings from Russia and Afghanistan

Dimension	Russia	Afghanistan
Financial restrictions	Significant disruption to selected banking channels	Difficulties in international payment channels
Transportation	Restrictions affected certain shipping arrangements	International logistics and payment constraints
Main contractual risk	Payment and delivery disruption	Payment accessibility and compliance-related delays
Key lesson	Sanctions may affect several contractual components simultaneously	Banking and risk-management constraints may indirectly disrupt contracts

4.9. Sanctions Risk Management in International Commercial Contracts

The findings demonstrate that sanctions risks should be addressed before the conclusion of an international commercial contract rather than only after a sanction has been imposed. Contractual parties should identify relevant sanctions risks, determine their allocation, and establish procedures for responding to future restrictions. A well-designed sanctions clause can specify the meaning of a sanctions event, notification obligations, alternative performance mechanisms, suspension rights, renegotiation procedures, allocation of additional costs, and circumstances in which termination may be permitted.

Table 9: Key Contractual Risk-Management Measures

Contractual Measure	Purpose
Sanctions clause	Define sanctions and their contractual consequences
Force majeure clause	Establish conditions for relief from performance
Hardship clause	Provide a mechanism for renegotiation and adaptation
Alternative payment clause	Identify lawful payment mechanisms
Alternative transportation clause	Permit reasonable alternative routes
Insurance provision	Address insurance risks arising from sanctions
Notification requirement	Ensure timely communication
Cost-allocation mechanism	Determine responsibility for additional costs
Dispute-resolution clause	Establish procedures for resolving sanctions-related disputes

5. Discussion

The research findings indicate that economic sanctions have multifaceted effects on the performance of international commercial contracts, payments, transport, insurance, and economic equilibrium. These findings align with previous studies identifying sanctions not merely as a matter of public international law, but as significant legal impediments to private contracts and contractual relationships (Azeredo da Silveira, 2017; Malloy, 2022) [4, 11]. However, this study distinguishes itself by analyzing these effects within a unified legal framework encompassing *force majeure*, hardship, banking restrictions, and contractual remedies.

5.1. The relationship between sanctions and the principle of *pacta sunt servanda* (contractual obligation)

The research findings demonstrate that the principle of contractual obligation and the impediments arising from sanctions are not mutually exclusive. Consistent with earlier studies (Malloy, 2022; Kotelnikov, 2020) [11, 9], this research concludes that an uncontrollable legal impediment arising after the conclusion of a contract can limit legal liability for non-performance. Conversely, if the sanction existed prior to the contract's conclusion and the party was aware of it, a claim based on non-performance is weakened. Therefore, assessing the timing of the sanction, the party's awareness, and the contractual allocation of risk is essential.

5.2. Sanctions and *force majeure*

Why does not every sanction constitute *force majeure*? A key finding of this study is that the mere existence of sanctions is insufficient to invoke *force majeure*. This conclusion aligns with the UNIDROIT Principles and the analysis by Azeredo da Silveira (2017) [4], which regard the actual impact of the impediment—rather than just its formal existence—as a crucial criterion for legal assessment. If an alternative banking, transport, or legal channel exists, a claim of absolute impossibility of performance is weakened; conversely, in the absence of such alternatives, the *force majeure* argument is strengthened.

5.3. Sanctions and Hardship

The findings indicate that sanctions do not always render performance impossible; rather, they frequently disrupt the economic equilibrium of the contract. This finding is consistent with the UNIDROIT doctrine of hardship and discussions in prior studies. Specifically, Starzhenetskiy and Bagrova (2023) [13] note that sanctions can escalate contractual costs and risks to such an extent that the need for contract modification, renegotiation, or suspension arises. Consequently, in the context of sanctions, modifying the contract often represents a more balanced solution than immediate termination.

5.4. The Russian Case and the Practical Impact of Financial Sanctions

The Russian experience reinforces the study's finding that financial sanctions directly impact the process of contractual payments. Findings regarding SWIFT restrictions indicate that the closure of a financial messaging channel does not render all payments absolutely impossible; rather, it increases the need for legal and practical alternatives. This analysis aligns with the discussions of Kotelnikov (2020) [9] and Lupton (2022) [10], particularly concerning the relationship between banking transactions and contractual payments. Consequently, in cases involving sanctions, a distinction must be made between a situation where payment has become "difficult" and one where it has become "legally impossible."

5.5. The Case of Afghanistan and the Challenge of International Payments

Findings from Afghanistan demonstrate that issues surrounding international contracts can arise not only from direct sanctions but also from the combined impact of banking compliance requirements, risk mitigation policies, and restricted international banking relationships. This analysis is consistent with World Bank findings, which identify international payment difficulties as a major challenge for Afghan companies. The case of Afghanistan differs from that of Russia in that factors related to banking risk and compliance play a significant role alongside sanctions. Therefore, identifying alternative legal payment mechanisms when structuring contracts is of particular importance for Afghanistan.

5.6. Researcher's Perspective on Preserving the Economic Balance of the Contract

Research findings support the view that if the economic balance of a contract is disrupted due to sanctions, attention should shift from the limited options of strict adherence or termination toward flexible solutions. This perspective aligns with the UNIDROIT principle regarding hardship (onerous circumstances) and the discussions by Starzhenetskiy and Bagrova (2023) [13] on contract modification and renegotiation. Price adjustments, extensions of delivery deadlines, and the equitable allocation of additional costs can preserve the contract's core economic purpose, particularly when performance remains legally feasible.

5.7. Specific Sanctions Clauses: A Tool for Managing Future Risk

A final key finding of the research is that specific contractual sanctions clauses serve as an effective tool for managing future risk. This finding aligns with studies by Lupton (2022) [10] and Starzhenetskiy and Bagrova (2023) [13], which highlight the importance of proactively addressing sanctions-related risks. Such clauses allow for the pre-definition of terms regarding the definition of sanctions, notification requirements, temporary suspension, alternative performance, renegotiation, modification, and termination. Consequently, a sanctions clause can be viewed not merely as a mechanism for dispute resolution, but also as a means of preventing disputes and ensuring the equitable allocation of contractual risk.

6. Conclusion

Research indicates that economic sanctions have direct and indirect impacts on the performance of international commercial contracts, payments, banking relations, transport, insurance, and economic equilibrium. The legal consequences of sanctions are not uniform; rather, they are determined by the nature of the sanction, contractual terms, the timing of the impediment, and the parties' degree of control, the availability of alternatives, and the applicable law.

The study concludes that not every sanction automatically constitutes *force majeure*. If a sanction renders performance impossible and no legal alternative exists, a claim of *force majeure* may be substantiated; however, if performance remains possible but costs and economic burdens have increased, issues regarding hardship (changed circumstances) and the modification or renegotiation of the contract arise.

Experiences involving Russia and Afghanistan demonstrate that financial, banking, and logistical restrictions can significantly affect the performance of international contracts. Therefore, managing the risk of sanctions should begin prior to contract conclusion, incorporating specific sanctions clauses, clear provisions regarding *force majeure* and hardship, alternative payment and transport routes, and mechanisms for renegotiation and dispute resolution.

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