

## Countermeasure Against an International Organization: The Legitimacy of Iran's Suspension of Cooperation with the International Atomic Energy Agency (Original Research)

Mahdi Haddadi \*

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### Extended Abstract

#### Introduction

Iran is considered one of the longstanding members of the International Atomic Energy Agency (IAEA) and a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). Iran's nuclear activities, including uranium enrichment following the Islamic Revolution, may be regarded as the starting point of its legal and technical challenges with the Agency. Under the law of international organizations, the relationship between an international organization and its member states is based on a reciprocal legal framework. On the one hand, member states undertake obligations vis-à-vis the organization, such as compliance with its regulations, payment of membership dues, implementation of binding decisions, cooperation with its organs, and refraining from actions incompatible with the organization's objectives. On the other hand, the international organization itself bears responsibilities toward its members, including ensuring equal participation (at least within the framework of its founding instrument), respecting the principle of sovereign equality of states, facilitating involvement in decision-making processes, providing services and membership benefits (including technical, economic, or political cooperation), and acting within the scope of its conferred powers.

The primary source of these mutual rights and obligations is the organization's rules, particularly its founding charter. However, external sources such as the NPT and bilateral safeguards agreements also govern such relationships.

International organizations, as subjects of international law, may possess

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\* Associate Prof., Member of College of Farabi of the University of Tehran, Qom, Iran.  
mhaddady@ut.ac.ir



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primary international obligations. As stated by the International Court of Justice in its advisory opinion on the interpretation of the Agreement of 25 March 1951 between the World Health Organization and Egypt: “International organizations are subjects of international law and, as such, are bound by all obligations arising from general international law, their constituent instruments, and international agreements to which they are parties.” Like states, international organizations incur international responsibility in the event of a breach of their obligations.

A persistent legal challenge regarding primary international obligations is the nature of organizational rules as a source of international obligations for the organization. Recognizing the international character of obligations arising from such rules enables the application of international responsibility norms in cases of breach by the organization.

Another significant legal challenge in the relationship between organizations and their members concerns the enforcement of international responsibility, particularly the resort to countermeasures by member states against the organization. Can member states, in response to violations by the organization and in order to compel it to fulfill its primary and secondary legal obligations (cessation of breach, reparation), resort to countermeasures?

Why are countermeasures controversial in this context? During the drafting of the 2011 Articles on the Responsibility of International Organizations by the International Law Commission (ILC), concerns were raised that recognizing the possibility of countermeasures against organizations by their members might encourage coercion, retaliation, and subjectivity, ultimately disrupting the functioning of international organizations. The resort to countermeasures by member states against international organizations not only raises highly complex legal challenges but also reflects a profound tension between the institutionalization inherent in international organizations and the primitive logic of self-help prevailing in the international community. Moreover, as acknowledged by the ILC, existing practice regarding countermeasures against organizations is scarce. Some argue that it is more prudent to recognize countermeasures within the draft articles on international responsibility, but to regulate and restrict them. This latter approach was ultimately adopted in the draft articles on state responsibility and appears likely to prevail in the context of international organizations as well. Importantly, the 2011 draft distinguishes between countermeasures taken by member states against the organization and those taken by non-member states.

The central question addressed herein is whether the suspension or reduction of cooperation by the Islamic Republic of Iran with the IAEA—either historically or following the enactment of legislation mandating such suspension—can be justified as a countermeasure against an international organization. The answer lies within the framework of the rules on the international responsibility of international organizations, specifically in the

enforcement phase. However, since enforcement—including resort to countermeasures—requires the establishment of international responsibility, the first section must examine the extent to which international organizations are bound by international obligations. Given that a significant portion of the rules governing the relationship between organizations and their members are internal organizational rules, it is essential to determine whether obligations arising from such rules constitute international obligations. If they do, their breach would trigger the application of international responsibility norms in the relationship between members and the organization.

The second section must assess the alleged breaches raised by the Iranian government. Finally, the third section, which pertains to the enforcement of international responsibility, will analyze the issue of countermeasures by member states against the organization within the framework of the 2011 draft articles. This will clarify whether Iran's suspension of cooperation with the IAEA falls within the scope of these provisions. Accordingly, the structure of the article aligns with the structure of the rules on international responsibility.

### **Methodology**

This article will attempt to prove its hypothesis using a descriptive-analytical method and by examining doctrine, government practice, and judicial practice.

### **Conclusion**

The present analysis has demonstrated that international organizations, notwithstanding their independent legal personality and extensive powers, remain bound by the framework of international law, particularly their constituent instruments and related treaties. A breach of such obligations entails the international responsibility of the organization. The 2011 Draft Articles on the Responsibility of International Organizations adopted by the International Law Commission (ILC) explicitly confirm this principle and provide the basis for assessing the responsibility of organizations, including the International Atomic Energy Agency (IAEA).

With respect to the validity of organizational decisions and acts, the jurisprudence of the International Court of Justice (ICJ) indicates that the presumption favors the validity of such decisions insofar as they are consistent with the organization's purposes and implied powers. Only in cases of manifest violations of the explicit provisions of the constituent instrument may invalidity be invoked. For this reason, the doctrine of nullity of unlawful decisions of international organizations faces serious practical obstacles. In practice, recourse is instead made to internal mechanisms or, where permissible, to countermeasures within the general framework of the law of international responsibility.

As regards the reaction of member states, countermeasures against international organizations may be justified only in limited circumstances

and subject to the strict conditions set out in Articles 51 and 52 of the 2011 Draft Articles on the Responsibility of International Organizations. These restrictions—particularly the requirement that countermeasures must not contravene the organization’s rules and that prior attempts be made to utilize internal mechanisms and dispute settlement procedures—reflect the international community’s desire to preserve the autonomy and functionality of organizations while ensuring their accountability. The ILC’s main concern in drafting the rules on countermeasures against organizations was to constrain the ability of member states to resort unilaterally to such measures against an organization of which they are members. The Commission was especially wary that legitimizing countermeasures might lead to increasing abuses, particularly by powerful members.

With regard to Iran’s suspension of cooperation with the IAEA, it can be argued that if this action was grounded in breaches of obligations under the Safeguards Agreement (such as the principle of confidentiality), the resort to countermeasures would require prior recourse to dispute settlement procedures and compliance with the restrictions under Articles 51 and 52. However, if the justification relied merely on general principles contained in the IAEA Statute, such as impartiality and professionalism of the Director General, the absence of an explicit authorization in the constituent instrument would render such countermeasures lacking a clear legal basis.

Ultimately, this study has shown that the gaps and ambiguities in the current regime of international responsibility of organizations—including the scope and permissibility of member states’ countermeasures—not only generate practical disputes but may also undermine the effectiveness of international organizations. It is therefore recommended that the international community work towards the elaboration of clearer rules and the establishment of effective supervisory and judicial mechanisms, so as to guarantee organizational accountability while preserving institutional coherence and efficiency.

In sum, unilateral legal challenges by member states against international organizations, without the support of other members, are unlikely to succeed. As the ICJ’s jurisprudence suggests, in organizations lacking a judicial organ empowered to review the legality of actions, non-judicial organs often justify their conduct by invoking their interpretative authority over the constituent instrument and by relying on the doctrine of functional necessity.

### **Keywords**

International Atomic Energy Agency, International Responsibility, Countermeasure, Rules of Organization, Suspension of Cooperation

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