EXTRATERRITORIAL JURISDICTION OF STATES IN REGULATING INTERNATIONAL BANKING

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ABSTRACT

International Banking enables countries to transfer money across borders through networks such as SWIFT, CHIPS, and Fedwire. However, there is no common law governing cross-border transactions, which allows powerful countries like the U.S. and China to apply their national laws to punish foreign banks for violating the laws, even when the act of a foreign bank is legal in its own country. This becomes a greater problem for the smooth flow of transactions. This paper examines how the extraterritorial jurisdiction of states is justifiable through the 'effects doctrine' and 'protective principle' from the perspective of imposing states, and it also argues how this unilateral enforcement creates conflict and raises legal issues across the world by using a comparative study of countries. Finally, the paper also gives a balanced approach for a harmonious global trade and banking stability

Keywords: SWIFT, CHIPS, Fedwire, Extraterritorial Jurisdiction, International Banking.

INTRODUCTION:

On October 31, 2025, Revolut (an online bank) in the EU began freezing accounts belonging to Russian and Belarusian citizens (meaning no payments, no withdrawals, and no access to savings). The Bank contended that it was complying with the latest EU 19th sanctions package against Russia, which was adopted on October 23, 2025, resulting in many clients from Russia and Belarus facing problems with their transactions.[1] This sudden move of Revolut Bank shows the power of Extraterritorial Jurisdiction in international Banking. To understand the impact of such actions, it is essential to understand the key concepts at play, which are international banking and extraterritorial jurisdiction.

International Banking: It is a process that involves banks dealing with credit and money between different countries across the globe. It is also known as Offshore/Foreign Banking[2]. Banks usually undertake these operations to expand their profit and collect resources from other countries, and to secure the economy. This International Banking between countries happens in various modes like correspondent banks, representative offices, Foreign branches, subsidiaries, and affiliate banks[3]. It makes transfers simple through networks such as SWIFT (the Society for Worldwide Interbank Financial Telecommunication), which transmits payment messages, CHIPS (the Clearing House Interbank Payments System for U.S. dollar transactions), and Fedwire. Though these systems connect countries globally and make economic interdependency possible, they are governed by the regulatory authorities that have more influence over them.

Extraterritorial Jurisdiction: It refers to the state's legal power beyond its territorial boundaries, and it has the authority over individuals, entities, or any act that has occurred outside its territorial boundaries[4]. In the context of international banking, powerful countries like USA and China apply their nationalistic laws to foreign banks and penalize them if those banks have not complied with the domestic laws of those powerful jurisdictions. The Revolut case is a clear example of how the EU has exercised extraterritorial jurisdiction. While such

[1] Russian Clients Living in the E.U. Struggle to Regain Banking Access after Fintech Company Revolut Freezes Accounts, MEDUZA (Nov. 3, 2025), https://meduza.io/en/feature/2025/11/03/russian-clients-living-in-the-e-u-struggle-to-regain-banking-access-after-fintech-company-revolut-freezes-accounts

[2] International Banking (Hemen Awua & Bello Lawal eds., Univ. of Abuja; E. U. Abianga ed., Nat'l Open Univ. of Nigeria, n.d.).

[3] Sabrina Maly, International Banking: How it works, types & services, AMNIS Treasury (July 17, 2024

[4] A.J. Colangelo, What Is Extraterritorial Jurisdiction, 6 (99) Cornell Law Review, (2014).

impositions on banks and other institutions are justified by the 'protective principle' and 'effects doctrine', they raise very serious challenges.

This paper aims to address the tensions from both perspectives. It examines how this extraterritorial jurisdiction is justified for the imposing states, and then how this exercise has affected the banking system across the globe

Justifications for Extraterritorial Jurisdiction: The Imposing States Perspective

Traditionally, states have had the power to enforce their domestic laws within their own territory, known as territorial jurisdiction. But things have changed in recent times. Today, the world of Banking is interconnected. Banks in one country depend on correspondent banks to handle international payments. For example, to send money from India to the USA, an Indian Bank uses an American bank to complete the transaction through SWIFT or other networks. This interconnectedness has profound threats like money laundering and terrorism financing. These threats may start in one country, but can directly harm the security of another country

Because of these risks, powerful countries apply their nationalistic laws outside their borders to stop such threats effectively. From their point of view, this is necessary to protect their national interests and keep the financial system safe. The imposing state's actions can be justified by two main principles: a) the protective principle, b) the effects doctrine

a) The protective principle: Under Public International Law, it is a well-established principle that permits a state to exercise jurisdiction over conduct that occurs outside its territory when such an act threatens the interests of the state directly or indirectly, it aims to protect the state from external threats to the state's existence, security or governmental functions This principle is grounded as a legitimate defence for a state to protect its interests. With the development of this principle, the 'effects doctrine' has emerged.

b) The Effects Doctrine: The 'effects doctrine' affirms that the acts abroad, even if those are of foreign citizens, may be regulated by a state if the act has an impact on the interests within that state[5]. Its origin can be traced in the case of the *United States v Aluminum Co of America*[6].

[5] Najeeb Samie, The Doctrine of "Effects" and the Extraterritorial Application of Antitrust Laws, 14 U. Miami Inter-Am. L. Rev. 23 (1982) Available at: http://repository.law.miami.edu/umialr/vol14/iss1/3
[6] United States v. Aluminum Co. of America, 148 F.2d 416 (2d Cir. 1945)

The federal court observed that any state may impose its domestic laws beyond its territory if the act has consequences or effects on that country.

In international banking, powerful countries like the U.S. use this 'protective principle' and 'effects doctrine' as justifications for the exercise of their power internationally to protect their national security, foreign policy, and financial systems.

For instance, in 2014, BNP Paribas, a French Bank intentionally processed over $8.8 billion in USD transactions from 2004 to 2012 for entities in Sudan, Iran, and Cuba. These countries have been sanctioned by the U.S. for supporting terrorism and abusing human rights; however, the French bank willingly concealed the details of these payments by removing references to sanctioned entities and using satellite banks for the funds through U.S. correspondent banks. The U.S. has applied its International Emergency Economic Powers Act (IEEPA) for Sudan and Iran and the Trading with the Enemy Act (TWEA) for Cuba to penalize the bank as their actions were against the U.S. legislative intent, and with these actions, the bank pleaded guilty to their violations and paid a record of $8.9 billion penalty[7]

Similarly, the Standard Chartered Bank, a British bank, illegally processed billions in USD transactions for Iranian citizens and entities from 2001 to 2011. Iran was sanctioned by the U.S. for sponsoring terrorism and pursuing nuclear weapons. The bank intentionally hid the Iranian connection by removing identifying information from payment messages and routing the transactions through its New York branch. This allowed Iran to access the U.S. financial system, undermining sanctions.[8] The U.S. applied IEEPA, and Standard Chartered was held responsible for their actions and paid over $1.7 billion penality across settlements.

These situations show why this approach is indispensable from the imposing state's view. If the U.S. did not apply its laws to foreign banks, then sanctioned countries could easily use banks to process USD transactions without fear of penalties, allowing them to continue accessing global markets and funding activities like terrorism or nuclear proliferation. From the imposing state's perspective, this would severely undermine their national security and

[7] BNP Paribas Agrees to Plead Guilty and to Pay $8.9 Billion for Illegally Processing Financial Transactions with Sanctioned Entities, U.S. DEP'T OF JUSTICE (June 30, 2014), https://www.justice.gov/archives/opa/pr/bnp-paribas-agrees-plead-guilty-and-pay-89-billion-illegally-processing-financial

[8] Standard Chartered Bank Admits to Illegally Processing Transactions in Violation of Iranian Sanctions and Agrees to Pay More Than $1 Billion, U.S. DEP'T OF JUSTICE (Dec. 10, 2012), https://www.justice.gov/archives/opa/pr/standard-chartered-bank-admits-illegally-processing-transactions-violation-iranian-sanctions

foreign policy goals, as threats originating abroad would go unchecked in the interconnected banking system.

While these justifications give a reason for the imposing states to unilaterally exercise their power on banks, they create prominent challenges for the affected parties

Challenges of Extraterritorial Jurisdiction: The affected parties perspective

From the affected party's view (i.e, foreign banks, smaller states, global financial communities), this unilateral exercise of power by powerful countries like the U.S. creates significant challenges, including over-compliance, conflicts of law between countries, and financial inclusion. These issues do not just lead to economic harm, instability, and legal uncertainty, but also question the sovereignty of the affected state.

Primarily, over-compliance is a form of avoidance risk; it happens when banks decide to freeze assets that are not targeted by sanctions as well and refuse to maintain bank accounts of individuals, even when they are not part of the sanction regime. They do this because these individuals are citizens of sanctioned countries. The UN Special Rapporteur has specifically warned that excessive caution by banks in implementing sanctions often causes harm to human rights, including the right to food, health, and development, by restricting transactions that were not even intended by the sanctions themselves. For instance, in 2012, after the U.S. had sanctioned HSBC (a UK Bank) under IEEPA, the bank closed thousands of accounts for transactions in regions like Somalia, with a fear of secondary sanctions. This action has disrupted around ~ 40% of Somalia's GDP.[9]

Secondly, with these exercises of power, conflicts of law arise. When powerful jurisdictions apply their national laws to foreign banks for acts legal in the bank's home country, it creates conflicting obligations. China's Anti-Foreign Sanctions Law (AFSL), enacted on June 10, 2021, is a direct counter to U.S. extraterritorial sanctions like IEEPA, which prohibits Chinese citizens, organizations, or entities from complying with U.S. restrictive measures that infringe on China's sovereignty or interests[10]. This creates dual compliance risks, which leads to legal

[9] Sonia Plaza, Anti-Money Laundering Regulations: Can Somalia Survive without Remittances?, PEOPLE MOVE BLOG (Feb. 11, 2014), https://blogs.worldbank.org/en/peoplemove/anti-money-laundering-regulations-can-somalia-survive-without-remittances

[10] Roy Zou et al., China Passes the Anti-Foreign Sanctions Law, Adding More Legal Tools to Countermeasure Foreign Sanctions and Interference, HOGAN LOVELLS (June 16, 2021)

uncertainty.

Another key challenge is the reduced financial inclusion; financial services should be affordable and appropriate to everyone, but with over-compliance and legal conflicts, the accounts of individuals are either closed or not maintained properly, This leads to a large exclusion, where individuals and other entities lose access to basic banking tools which are essential for daily transactions (saving money securely, receiving wages or remittances, or credit history). As a result, it affects people with greater risks.

Thus, from the affected parties perspective, this unilateral extraterritorial jurisdiction, though aimed at security reasons for powerful countries, put significant burden on individuals and entities. These challenges showcase the limitations of a unilateral approach. A more balanced framework is therefore essential to address security objectives with fairness in international banking.

A Balanced Approach to Extraterritorial Jurisdiction in International Banking:

These tensions between the imposing states and affected parties need a balanced multilateral approach. A cooperative framework can enhance proper enforcement goals against the threats while making sure there is no harm done to the parties. To achieve this balance, several practices can be taken.

Firstly, strengthening existing multilateral institutions such as the Bank for International Settlements (BIS) and the Financial Action Task Force (FATF) would help develop common-based guidelines on sanctions and other activities of foreign banks. These institutions could clearly issue the standards for banks, which will reduce legal conflicts while complying with measures against money laundering and terrorism financing.

Secondly, in line with UN recommendations, attention to human rights is required. Imposing states and parties that are going to be sanctioned should conduct human rights due diligence to avoid restrictions on those individuals who are not even part of the sanctioned regime. Banks could adopt policies for exemptions for individuals when they are sanctioned.

Thirdly, A high-level dialogue and treaty among powerful countries could establish principles of such jurisdictional actions. Binding agreements or International Organisations frameworks

could include a consultation mechanism before imposing sanctions, which will reduce conflicts.

These approaches would reconcile the tension with respect to security imperatives and could help achieve a stable global banking system for everyone worldwide.

Conclusion:

Extraterritorial jurisdiction remains a powerful tool in the hands of dominant states, allowing them to protect their nations' security at any cost. To an extent, such actions are justified, as national security is a priority for every nation. However, these impositions go beyond just penalizing the banks; they disrupt the global financial system indirectly as well. With the fear of secondary sanctions, affected parties take excessive caution, which results in unnecessary harm to citizens who are not targeted by sanctions themselves.

Thus, for this tension, a balanced approach is needed; if the current unilateral system continues, it will have long-term instability in the global financial system. Corporation among powerful countries for an interconnected set of international banking guidelines would provide predictability for everyone. Such guidelines could address transnational threats while respecting the sovereignty of every nation and not affecting innocent individuals lives, ultimately having a safe and equitable global finance system