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The Countermeasures of Others: When Can States Collaborate in the Taking of Countermeasures?

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In the last few years, states have advanced various proposals for state co-operation in the use of countermeasures. In this Article, we ask whether, and if so under what conditions, states may lawfully collaborate in the taking of countermeasures against other states. We distinguish five different types of collaboration: (1) independent but coordinated action; (2) secondment; (3) joint action; (4) aid and assistance; and (5) what we term “proxy countermeasures”—the idea of taking a measure at the request and on behalf of another state. We consider the permissibility of each, both where the acting state is itself entitled to resort to countermeasures and where it is not. We also draw attention to certain legal and policy considerations relating to, and to plausible avenues for, the evolution of law.

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