

The Institutional Dilemma and Improvement of China's Anti-Sanctions Law

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Abstract: After the signing of the 25-year strategic cooperation agreement between China and Iran in 2021, especially after the outbreak of the Russia-Ukraine conflict in 2022, the United States has frequently wielded the stick of sanctions and continuously strengthened containment and suppression of China. Secondary sanctions are based on their dominant position in the international community to increase the cost of a third country's compliance with the sanctions of the sanctioning countries, and to transform their unilateral sanctions into a coercive means of multilateral sanctions. In order to safeguard national interests and national dignity and to express a solemn and just stand against hegemony and power, China has successively promulgated relevant counter-sanctions laws, such as the Measures for Blocking the Improper Extraterritorial Application of Foreign Laws and Measures, the Law on Opposing Foreign Sanctions, the Foreign Relations Law, and the Export Control Law. However, at the same time, because China's legal system on countermeasures is still in the exploratory period, and various systems are still being continuously improved with the development of practice, it is inevitable that there will be problems such as immaturity and lack of practicality, which will have high requirements and strict standards for all parties involved in preventing problems, discovering problems, and solving problems, and China's anti-sanctions legal system will continue to mature and become a powerful tool for protecting national interests and safeguarding national security.

1. Introduction

In recent years, with the rapid development of China's economy, the frequent occurrence of global geopolitical events such as the Russia-Ukraine war, the Palestinian-Israeli conflict, and the tension between China and the United States, the international situation has become more and more complex. China faces many challenges in the context of international sanctions, first of all, the frequent use of unilateral sanctions by Western countries led by the United States, the European Union and the United Kingdom, especially in the political, economic, scientific and technological fields involving China, and the intensity and breadth of sanctions are increasing. As the dominant player in the global economy, the United States has used secondary sanctions as a "habitual tool" to pursue foreign policy, and has become the country that uses secondary sanctions most frequently. It can be seen from the series of laws and sanctions initiated by the United States and other Western countries against China that China is facing unprecedented challenges and pressures. [1]For

example, since 2019, the United States has mobilized its national power to exert all-round and multiple rounds of extreme pressure on Huawei, brazenly imposing export controls on it, and cutting off cooperation between American companies and Huawei in key areas such as chips and technology by executive order. The participation of Chinese companies in the global technology supply chain is limited, and scientific research cooperation and technology exchange are hindered. Moreover, the U.S.-led global financial system has made financial sanctions a powerful means of restraining China, with the former freezing the overseas assets of Chinese companies or individuals through laws such as the International Emergency Economic Powers Act (IEEPA) and cutting off access to international financial transactions. Second, China, as the center of global supply chains, relies on international trade and cross-border cooperation to drive economic growth. However, sanctions often cut off China's ties with global supply chains, especially the supply of core technologies and high-end equipment, affecting China's normal operations. From the perspective of diplomacy and international relations, sanctions are often part of political pressure and geostrategic games, often accompanied by the guidance of international public opinion, which may trigger tensions in international relations, especially in areas related to human rights, South China Sea disputes, and the Taiwan issue. In the face of precise sanctions against specific companies, industries and even individuals, China needs targeted countermeasures to protect its own businesses and citizens from the adverse effects of external sanctions, and in order to maintain the stability of supply chains, China needs to strengthen multilateral cooperation with other countries to ensure a safe position in global supply chains. At the same time, in the international arena, China needs to respond aggressively and use diplomatic means to contain the spread of sanctions. Against this backdrop, China needs to build a complete anti-sanctions and blocking legislation system to respond to external pressures, protect national interests, and safeguard national sovereignty.

2. Theoretical support for China's anti-sanctions laws

2.1. The illegality of secondary sanctions – the example of the United States

2.1.1. National Jurisdiction Perspective

From the perspective of the theory of national jurisdiction, the United States is used as an example to demonstrate the illegality of secondary sanctions: first, whether secondary sanctions by the United States are territorial jurisdiction? Territorial jurisdiction means that governments can manage people and events in their own jurisdiction or major accidents caused by them according to local laws, so it is also called territorial jurisdiction, and this jurisdiction excludes the diplomatic privileges and immunities provided for in the nationality law. Territorial jurisdiction is based on respect for the territorial sovereignty of each country, and accordingly, if the United States imposes secondary sanctions on the basis of territorial jurisdiction, the sanctions must be imposed on people, things or events in the United States, and vice versa. Secondary sanctions are aimed at third countries that do business with the target of primary sanctions, and are "non-US entities", so the United States cannot rely on territorial jurisdiction as the basis for its arbitrary actions.[2]

Second, are U.S. secondary sanctions personal jurisdiction? Personal jurisdiction refers to the jurisdiction enjoyed by a state over the acts of natural persons, legal persons and other entities (whether located within or outside the country) with its own nationality based on the connection point of nationality. [3]However, when the U.S. conducts commercial dealings with Chinese entities, it sanctions the former at the same time as sanctions against the latter, and sanctions against the Chinese entities undoubtedly treat the domestic entities under personal jurisdiction as nothing.

Thirdly, are U.S. secondary sanctions protective jurisdiction? Protective jurisdiction refers to the exercise of jurisdiction by a country to safeguard national security, independence, international

interests and the vital rights and interests of its citizens. This jurisdiction gives the State the right to exercise jurisdiction over serious violations of the legal interests of the State and its citizens committed by foreigners, or within or outside its borders, with the core purpose of providing remedies and prevention mechanisms for unlawful violations suffered by the State and its citizens abroad. The United States initiated secondary sanctions because it believed that the target country of the primary sanctions was engaged in commercial dealings with a third country, and that the United States was indirectly providing economic support to the target country of the primary sanctions in the process of dealing with the third country. The trade behavior between China and the target country of the U.S. primary sanctions is a reasonable and reasonable international trade transaction.[4]

Finally, are U.S. secondary sanctions universal jurisdiction? In 2018, the United States declared that Iran's nuclear weapons were likely to cause global security problems, so it sanctioned Iran's nuclear weapons in the name of justice. However, the dealings between China and Iranian entities not only have nothing to do with Iran's development of nuclear weapons, but also have no connection with violating Security Council resolutions on Iran's economic sanctions, and are not even among the special crimes recognized by the international community as the common interests of all mankind.

2.1.2. Treaties and International Law from the Perspective of Customary International Law

From the perspective of treaty international law, firstly, secondary sanctions are contrary to the UN Charter and Security Council resolutions. Articles 2 and 4 of the Charter of the United Nations stipulate that members shall not infringe on the sovereignty and political independence of other States in a manner inconsistent with the purposes of the United Nations. The 1970 Declaration of the United Nations General Assembly on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations clearly defined economic sanctions as "economic coercive measures", so such acts fall within the category of being recognized and permitted by the international community.[5]

The application of international law standards to economic sanctions, including those imposed by the UN, has long been a topic of debate. Scholars argue that even UN-sanctioned measures must comply with fundamental principles of international law, such as proportionality and non-discrimination. [6]The U.S. often invokes relevant UN Security Council resolutions to advance its economic sanctions legislation—for instance, using Security Council resolutions in the Iran Comprehensive Sanctions, Accountability, and Divestment Act as the basis for regulating foreign financial institutions' account rules. Though this appears politically correct in form, its purpose is illegal, the measures lack legal grounding, and U.S. secondary sanctions clearly exceed the scope authorized by UN Security Council resolutions. In November 1996, the EU filed a case with the WTO Dispute Settlement Body against the U.S. for violating GATT 1994 provisions (most-favored-nation treatment, national treatment, freedom of transit, quantitative restrictions, balance-of-payments restrictions) and the General Agreement on Trade in Services, leading to a settlement. Canada and Mexico also challenged the U.S. under NAFTA.

From the perspective of customary international law, secondary sanctions violate the principles of sovereign equality and non-interference in internal affairs. Since the Russia-Ukraine conflict, the U.S. has coercively meddled in China's internal affairs by repeatedly signaling that China would face "consequences" if it "undermined" U.S. sanctions on Russia—an act with no legitimate basis in international law. China's economic and trade exchanges with any country are matters of its sovereign jurisdiction, and U.S. secondary sanctions against China run counter to the principles of state sovereign equality and non-interference in internal affairs.

2.2. The legitimacy of China's counter-sanctions

Secondary sanctions imposed by other countries have put Chinese entities and individuals at great risk of being sanctioned when engaging in international economic activities. In particular, in practice, the United States has excessively expanded the target and scope of secondary sanctions, seriously undermined China's national sovereignty and interests, interfered in China's internal affairs, and violated the principles of sovereign equality and non-interference in internal affairs of states under international law. When more and more Chinese entities and individuals are included in the sanctions lists of the United States, the European Union, the United Kingdom, Canada and other countries or regions, in order to safeguard China's sovereignty and security, defend the principles of international law, oppose hegemonism and power politics, China has established and enriched its own legal "toolbox" to counter sanctions and interference, and to carry out counter-sanctions in the form of legislation.

3. Typical national counter-sanctions laws and their practical effects

3.1. The EU Blocking Statute

3.1.1. Main Provisions

The EU's 1996 Blocking Statute ("Council Regulation (EC) No 2271/96") establishes mechanisms to block the extraterritorial application of foreign laws within the EU, mainly to mitigate the impact of U.S. secondary sanctions (notably from the Helms-Burton Act and Iran and Libya Sanctions Act). It includes five key countermeasures: (1) Prohibition on Compliance: Article 5 prohibits EU operators from complying, either directly or indirectly, with any foreign legislation listed in the annex (the "blocked statutes"), whether through action or omission. It also prohibits compliance with any judgments or administrative decisions based on such laws. (2) Non-recognition and Non-enforcement: Article 4 provides that judgments issued by courts or authorities outside the EU, based on the blocked legislation, shall neither be recognized nor enforced within the EU. (3) Right to Compensation: Under Article 6, EU entities suffering damages as a result of the application of blocked legislation or resulting actions may seek compensation from the persons or entities causing the damage. (4) Reporting and Disclosure Obligations: Article 2 establishes an obligation for EU persons and entities affected by the listed foreign laws to report such incidents to the Commission and Member States. (5) Exemption Mechanism: Article 5(2), in conjunction with Articles 7 and 8, allows for an exemption mechanism whereby EU operators may request authorization to comply with the blocked legislation, either wholly or partially, if non-compliance would seriously harm their interests or the interests of the EU.

3.1.2. Assessment of Effectiveness

In practice, the Blocking Statute has proven limited in scope and effectiveness. On one hand, the list of blocked legislation is relatively narrow compared to the vast number of secondary sanctions imposed by the U.S., which leaves EU operators inadequately protected and still significantly exposed to U.S. extraterritorial measures. On the other hand, considering the extensive commercial presence of EU businesses in the U.S. and the powerful deterrent effect of U.S. sanctions backed by the dominance of the U.S. dollar, many EU companies are incentivized to comply with U.S. laws regardless of the EU regulation. As a result, the Blocking Statute has had a largely symbolic and limited blocking effect.[7]

3.2. Russia's Federal Law on Countermeasures in Response to Unfriendly Actions of the United States and Other Foreign States

3.2.1. Main Provisions

In 2018, Russia enacted the Federal Law on Countermeasures in Response to Unfriendly Actions of the United States and Other Foreign States (hereinafter referred to as the Russian Counter-Sanctions Law). Following Russia's launch of its "special military operation" in Ukraine in 2022, sweeping sanctions led by the United States were imposed by Western countries in an attempt to sever Russia's economic lifelines. However, despite the imposition of over 8,000 sanctions by the Western bloc, Russia's national fiscal revenue surged by a quarter, primarily due to increased oil and natural gas exports. In response to the energy sanctions, Russia invoked the Russian Counter-Sanctions Law to introduce retaliatory measures. First, it mandated that countries listed as "unfriendly states" must pay for Russian oil and gas in rubles. Given their reliance on energy imports, many European enterprises subsequently opened ruble-denominated accounts to comply. Second, Russia required that debt payments to hostile or unfriendly states be made in rubles at a nominally equivalent value—for instance, a debt of 100 U.S. dollars would be repaid with 100 rubles, which, depending on exchange rates, could amount to as little as one U.S. dollar in actual value. Additionally, Russia implemented grain export controls, including a ban on exports of both Russian and Ukrainian grain.

3.2.2. Assessment of Effectiveness

Through the Russian Counter-Sanctions Law, Russia effectively targeted the vulnerabilities of Western states and leveraged its comparative advantage in energy resources to maintain economic cooperation with European countries. These countermeasures not only mitigated the impact of Western sanctions but also exacerbated transatlantic rifts, especially between the U.S. and the EU. The strategy achieved a degree of success in reversing pressure and asserting Russia's economic and political stance.

3.3. Canada's Foreign Extraterritorial Measures Act

3.3.1. Main Provisions

Following the enactment of the Helms–Burton Act in 1996, Canada—given its frequent trade relations with Cuba—faced an immediate and significant risk of secondary sanctions. In response, Canada amended its Foreign Extraterritorial Measures Act (FEMA) to address the harms arising from U.S. extraterritorial sanctions. The amended legislation provides specific guidance for how the government, businesses, and individuals should respond to such sanctions. First, the Helms–Burton Act was added to Canada's blocking list, and any foreign laws that infringe upon Canadian sovereignty or economic interests were denied legal effect within Canada. Second, Canadian courts were authorized to refuse enforcement of foreign judgments that are detrimental to Canada's national interests. Third, market participants who comply with or enforce foreign laws listed in the blocking regulations may face penalties; in the case of individuals, such penalties include not only fines but also potential imprisonment. Finally, the Act offers relief mechanisms for those who suffer losses as a result of being targeted by secondary sanctions.

3.3.2. Assessment of Effectiveness

Given the close economic integration between Canada and the U.S., as well as the significant

coercive power of U.S. sanctions, most Canadian businesses ultimately opted not to defy U.S. measures. Many ceased their business dealings with Cuba, effectively sidelining FEMA. Consequently, FEMA has functioned more as a symbolic gesture, reflecting the Canadian government's position rather than constituting a powerful legal deterrent.

4. The current status of China's anti-sanctions legal system

In order to counter the improper sanctions of other countries, China has promulgated the Measures for Blocking the Improper Extraterritorial Application of Foreign Laws and Measures and the Law on Opposing Foreign Sanctions. The former defends against the secondary sanctions of other countries and reduces the damage caused to our country, while the latter counterattacks on the basis of blocking and provides a certain degree of relief for the damage suffered. In addition, China has also promulgated the Foreign Relations Law, the Export Control Law and other relevant laws, which will help further improve China's anti-sanctions legal system.

4.1. Measures for Blocking the Improper Extraterritorial Application of Foreign Laws and Measures

From the 2005 blow to Macao's Banco Delta Asia, to U.S. sanctions against ZTE starting in 2016 (renewed in 2018) and the indictment of Huawei's CFO over alleged violations of U.S. sanctions on Iran, China has repeatedly been hit by U.S. secondary sanctions. Between 2019 and 2020 alone, a series of such sanctions targeting Chinese entities caused substantial losses. To counter undue extraterritorial application of foreign laws, protect national interests, and safeguard Chinese nationals and enterprises, China introduced the Rules on Counteracting Unjustified Extraterritorial Application of Foreign Laws and Measures (Blocking Rules)—its first systematic legal framework against improper foreign extraterritorial jurisdiction.

Article 2 of the Blocking Rules applies to foreign laws/measures that, when extraterritorially applied to Chinese entities, violate international law or unduly restrict legitimate economic activities. Drawing structurally and institutionally from the EU's 2018 revised Blocking Statute, the Rules take a more assertive tone due to differing China-U.S. geopolitical dynamics, though with less regulatory precision than the EU model.

Notably, Article 9(2) establishes a civil compensation mechanism: Chinese entities harmed by foreign judgments/decisions may sue for damages. Article 11 provides government support for entities suffering major losses from such foreign measures. In addition, the Rules provide for a prohibition and exemption mechanism, reporting obligations, the establishment of an inter-agency working mechanism, and, where necessary, countermeasures.[8]

4.2. Anti-Foreign Sanctions Law of the People's Republic of China

The strategic competition between China and the United States should not be met with passive follow-up or temporary responses, but should be effectively addressed through proactive and rational legal tools and institutional design. From the current state of China-U.S. relations, China's firm position of opposing hegemonism and power politics has objectively prompted the promulgation of the Anti-Foreign Sanctions Law, and the enactment of this law will undoubtedly better safeguard China's national sovereignty, security, and development interests.

The focus of China's Anti-Foreign Sanctions Law lies in "countering," which also reflects its distinction from the Rules on Counteracting Unjustified Extraterritorial Application of Foreign Laws and Measures (hereinafter referred to as the Blocking Rules). The two represent a progressive sequence. From the perspective of international law, Article 21 of the General Agreement on Tariffs

and Trade (GATT) explicitly stipulates that nothing in GATT shall prevent any contracting party from taking actions it considers necessary for the protection of its essential security interests in accordance with the Charter of the United Nations. Moreover, counter-sanctions are actions deemed necessary by a country to protect its basic national security interests.

In addition, the principle of reprisals under customary international law also serves as one of the legal bases of this law. Given the lack of effective enforcement mechanisms under current international law, if a state violates international law, the injured state may adopt retaliatory or countermeasures. From the perspective of domestic law, the Anti-Foreign Sanctions Law is grounded in the Constitution of the People's Republic of China. The preamble of the Constitution sets out basic principles for foreign relations, which provides jurisprudential support for the law.

The Anti-Foreign Sanctions Law consists of 16 articles in total. It not only clearly specifies the legislative basis but also lays out in detail the applicable circumstances, targets, and types of countermeasures, the obligations of relevant organizations and individuals, the legal consequences of failing to implement countermeasures, and the establishment of a coordination mechanism for countermeasure enforcement.[9] If the Blocking Rules are likened to an indestructible "shield" for dealing with secondary sanctions, then the Anti-Foreign Sanctions Law functions as a sharp "sword" for launching countermeasures. The two complement each other. China's counter-sanctions legislation is both defensive and offensive, allowing for both passive resistance and active response.

To effectively combat foreign sanctions, the Anti-Foreign Sanctions Law introduces a countermeasure list system. Articles 4 and 5 specify two types of subjects to which countermeasures apply: The first includes individuals or organizations that have been included in the countermeasure list by relevant departments of the State Council due to their direct or indirect participation in the formulation, decision, or implementation of discriminatory restrictive measures. The second includes individuals or organizations that, although not listed themselves, maintain close ties with listed subjects—such as spouses and immediate family members of listed individuals, enterprises in which such individuals serve as executives, or senior executives and actual controllers of listed organizations.

With regard to applicable subjects, the Anti-Foreign Sanctions Law clearly expands the scope of targeting. It provides a more comprehensive, flexible, and forceful response to discriminatory measures taken against China, thereby improving the accuracy and deterrent power of countermeasures. The law not only provides a sound framework, but also includes a variety of specific countermeasure types. A key issue in the application of the Anti-Foreign Sanctions Law is the identification of "discriminatory restrictive measures". Scholars have emphasized that clarifying the criteria for such identification is crucial to ensuring the law's targeted application and avoiding overreach.[10] On April 7, 2023, China's Ministry of Foreign Affairs published countermeasures pursuant to Articles 4, 5, 6, and 15 of the Anti-Foreign Sanctions Law. These measures included strict restrictions on Chinese organizations and individuals engaging in transactions, exchanges, or cooperation with the Hudson Institute and the Ronald Reagan Presidential Library; freezing of the movable and immovable properties and other assets of four individuals in China; denial of visa issuance and prohibition of entry into China.

Article 6 of the Anti-Foreign Sanctions Law not only provides a broad framework for countermeasures but also lays out specific retaliatory actions. Relevant departments of the State Council may adopt actions such as refusing entry, visa cancellation, expulsion, seizure of movable and immovable property, and asset freezes. Other necessary measures may also be taken. The application of these measures to relevant individuals or entities may be singular or combined, depending on the responsibilities and divisions of the implementing departments.

Article 10 of the Anti-Foreign Sanctions Law provides for the implementation of

countermeasures: China establishes a coordinating mechanism for foreign sanctions work. Relevant departments under the State Council coordinate and, based on their respective responsibilities, decide and implement corresponding countermeasures.

Articles 11 and 12 stipulate two obligations for relevant organizations and individuals: First, organizations and individuals within the territory of China shall not implement discriminatory restrictive measures taken by foreign countries against Chinese citizens or organizations. Second, no organization or individual may support or assist in the implementation of discriminatory restrictive measures imposed by foreign countries against Chinese nationals or organizations. Accordingly, under China's counter-sanctions regime, all entities and individuals—including but not limited to Chinese domestic enterprises—must comply. Foreign enterprises are likewise prohibited from assisting in the implementation of such discriminatory measures. Violation of these obligations will lead to severe consequences. Regarding the first obligation, if organizations or individuals within China fail to implement the required countermeasures, the competent departments under the State Council may restrict or prohibit their relevant activities. As for the second obligation, if discriminatory sanctions are implemented or assisted, Chinese citizens or organizations may file lawsuits with people's courts, seeking cessation of infringement and compensation for losses. If a judgment is made under Chinese law, it can establish debt liability on the violating party. Although the precise legal liabilities for failing to implement or assist countermeasures remain to be clarified through future supporting legislation or judicial practice, it is clear that non-compliance will jeopardize one's own interests. Therefore, when confronted with unilateral U.S. sanctions, relevant entities should not blindly comply, but rather “think twice before acting.”

4.3. Foreign Relations Law of the People's Republic of China

On June 28, 2023, the Standing Committee of the 14th National People's Congress adopted the Foreign Relations Law of the People's Republic of China at its third session. This legislation is a major legal development in recent years, aiming to provide a legal basis and framework for the state to manage its foreign affairs. The law explicitly stipulates China's sovereignty and legal status in foreign relations, as well as its fundamental positions in international affairs. It reflects China's diplomatic philosophy of peaceful coexistence and mutually beneficial cooperation.

In terms of legislative purpose, Article 1 of the Foreign Relations Law states that the law is enacted “to develop foreign relations, safeguard national sovereignty, security, and development interests, uphold and advance the interests of the people, build a modern socialist country, realize the great rejuvenation of the Chinese nation, promote world peace and development, and advance the building of a community with a shared future for mankind.” This article establishes that the primary objectives of the law are to protect sovereignty, security, and development interests, promote global peace and development, and provide clear norms and safeguards for China's relations with other countries and international organizations.

The law applies to all matters concerning China's foreign relations, spanning political, economic, and cultural fields, and covering diplomatic, economic and trade, legal assistance, and other activities. It clearly affirms the primacy of national sovereignty in foreign relations and protects the country's core interests through legal means. These core interests include political security, economic security, and security in technological development—all of which are legally protected and must not be infringed upon by foreign forces. In particular, Article 10 affirms the supremacy of national sovereignty and security interests and stipulates that foreign interference will be dealt with strictly in accordance with the law.

Articles 12 to 14 emphasize that China shall abide by the principles of international law,

including the Charter of the United Nations, support multilateralism, and oppose unilateralism, power politics, and interventionism, thereby ensuring the rule of law in foreign relations. These provisions reiterate China's respect for international law and affirm that international disputes should be resolved in accordance with international legal frameworks. China seeks to engage in cooperation with other countries and international organizations under the framework of international law and rejects hegemonism and unilateral actions. This reflects China's aspiration to promote the rule of law in international relations and to base such relations on equality and mutual benefit. Article 20 explicitly defines the legal status of China's overseas missions, protects the privileges and immunities of diplomatic personnel, and aligns with international diplomatic conventions. It ensures that diplomatic personnel of foreign missions in China enjoy legitimate rights and interests, thus facilitating smooth and lawful diplomatic exchanges between China and other countries.

In the realm of economic and trade affairs, the Foreign Relations Law outlines a policy of promoting foreign economic cooperation, with particular emphasis on strengthening trade and investment ties under initiatives such as the Belt and Road Initiative. The law provides that China may, in accordance with national interests, adopt measures including economic sanctions in response to unfriendly acts by foreign countries. This is primarily reflected in Articles 28 and 30, which provide a legal basis for addressing economic threats. Article 34 stipulates that when China's national interests are harmed or its national security is threatened by external actions, the government may take countermeasures, including economic and diplomatic responses. In addition, the law provides that the Chinese government shall protect the legitimate rights and interests of Chinese citizens and enterprises abroad through diplomatic channels. When Chinese citizens or enterprises suffer unlawful harm overseas, China has the right to engage in diplomatic negotiations and provide protection and support, thereby safeguarding national dignity and the interests of its people. This demonstrates China's commitment to protecting its citizens in the context of globalization.

4.4. Export Control Law

China's Export Control Law was officially promulgated in 2020, with the purpose of regulating export control activities, safeguarding national security and interests, and fulfilling international obligations. This law is one of the most important legal instruments in China's international trade regime, particularly concerning the control of sensitive items and technologies for export. It emphasizes regulatory oversight over the export of critical technologies, equipment, and items that implicate national security and diplomatic interests.

The Export Control Law aims to protect national security and interests while fulfilling China's responsibilities under international obligations. It applies to the export of items, technologies, equipment, military products, nuclear products, and other controlled items prescribed by law that are related to national security and international peace. Chapter I of the law explicitly defines the scope of applicable export items, including military materials, nuclear materials, dual-use items (i.e., items with both military and civilian applications), and other technologies and equipment relevant to national security.

Furthermore, the law establishes a control list mechanism, targeting specific items for export control. These items include nuclear materials, chemicals, military supplies, and sensitive technologies. The control list is dynamically updated by Chinese authorities in accordance with the international situation and national security needs, ensuring that the scope of control remains timely and effective. Chapter IV introduces a licensing system, under which exporters are required to apply for an export license from the government. Only after satisfying relevant conditions can export

permission be granted. This licensing requirement is a core element of the Export Control Law, intended to prevent controlled items from being transferred to countries or entities that may pose a threat to China's national security.

With regard to risk assessment and dynamic adjustment, the law authorizes the government to periodically evaluate and adjust the list of controlled items based on international political developments, national security considerations, and the sensitivity of technologies. This dynamic mechanism allows export controls to remain responsive to rapidly changing global circumstances.

For violations of the Export Control Law—such as exporting without a license or submitting false information—the law prescribes strict penalties, including fines, license revocation, and potential criminal liability. These enforcement provisions are designed to ensure the seriousness and deterrent effect of the law.

Through mechanisms such as control list management, licensing requirements, end-user and end-use controls, and dynamic adjustment, the Export Control Law enables the strict regulation of sensitive item exports. It ensures that export activities align with China's national security and interest priorities while also contributing to international cooperation in safeguarding global peace.

5. The institutional dilemma of China's anti-sanctions laws

5.1. Measures for Blocking the Improper Extraterritorial Application of Foreign Laws and Measures

The Blocking Rules contain many principled but relatively vague provisions, which render them difficult to apply in specific and complex real-world situations. Firstly, the mechanism for implementation lacks detailed specification. The Rules merely authorize the Ministry of Commerce to take the lead, in coordination with the National Development and Reform Commission and other relevant departments, to handle specific matters, but do not stipulate the concrete organizational structure, division of responsibilities, operational methods, or working procedures. These aspects await further elaboration through supplementary implementation rules.

Secondly, the exemption system suffers from insufficient detail regarding the conditions and procedures for exemption applications. The Rules provide no clear procedural framework nor specific criteria for determining whether the parties concerned may be granted exemptions.

Thirdly, the scope of both the subjects eligible for compensation and the range of damages subject to claims under the compensation system remains vague and needs clarification.

The Blocking Measures adopt a general legislative style, which reduces clarity in terms of their scope of application. Domestic entities must independently assess in advance whether their conduct involving trade with third countries violates the basic principles of international law and international relations, and make decisions accordingly. [11] This increases the compliance burden on the parties involved. Furthermore, the range of protected subjects is narrow, covering only Chinese citizens, legal persons, and other organizations. However, China is home to hundreds of thousands of foreigners as well as some stateless individuals, who fall outside this protection scope.

5.2. Anti-Foreign Sanctions Law of the People's Republic of China

The promulgation of the Anti-Foreign Sanctions Law has advanced the development of China's legal system in the area of counter-sanctions, significantly enhancing the comprehensiveness and legal authority of relevant legislation. It ensures that China's efforts to counter foreign sanctions are now backed by foundational legislation. However, some issues within the law still merit further consideration and improvement.

First, China has not yet established a dedicated agency to centrally coordinate and implement

counter-sanction measures. Given that the implementation of this Law still relies on coordination with other laws and regulations, and considering the potential for overlap or gaps among them, the absence of a specialized coordinating institution may create considerable difficulties in executing counter-sanction tasks. Article 10(1) of the Anti-Foreign Sanctions Law itself provides: “The state shall establish a coordination mechanism for countering foreign sanctions, responsible for the overall coordination of relevant work.”

Second, Article 23 of the Anti-Foreign Sanctions Law grants Chinese citizens and organizations the right to bring lawsuits to the courts when they are subjected to discriminatory restrictive measures or when their legitimate rights and interests are infringed, thus providing a legal remedy for sanctioned individuals and entities. However, the exercise of this right is premised on the jurisdiction of Chinese courts. According to Article 265 of China’s Civil Procedure Law, “For lawsuits involving contractual or property rights disputes brought against defendants with no domicile within the territory of the People’s Republic of China, if the contract is concluded or performed within China, or the subject matter of the lawsuit is located within China, or the defendant has property available for seizure within China, or the defendant has a representative office within China, then jurisdiction shall lie with the people’s court at the place where the contract is signed or performed, where the subject matter is located, where the seizable property is located, where the tort occurred, or where the representative office is located.” Thus, if discriminatory restrictive measures taken against China are executed or assisted by individuals or entities outside China, and none of the above jurisdictional factors apply, then Chinese courts will lack jurisdiction to accept such cases.

Finally, the implementation rules for the Anti-Foreign Sanctions Law still have ample room for improvement. A thorough reading of the text reveals that the law largely adopts a broad and abstract legislative style, with enumerative clauses appearing only in sections related to countermeasures and the scope of their application. Given the richness and complexity of legal language—and the fact that many legal concepts have broad connotations and nuanced meanings—excessive abstraction may lead to divergent interpretations of legal provisions. This may in turn hinder the effectiveness of the law and negatively affect its practical implementation. Scholars have also noted that the abstract nature of the Anti-Foreign Sanctions Law’s provisions may lead to inconsistent enforcement across different departments, highlighting the need for supporting regulations to clarify operational standards.[12]

5.3. Foreign Relations Law of the People’s Republic of China

As a key legal framework for China in managing international relations, the Law on Foreign Relations covers multiple areas in its core content, but still exhibits certain shortcomings that affect its effectiveness and flexibility in practical application.

First, it lacks concrete implementation rules and is weak in operability. Although the law provides legal norms for diplomacy and foreign relations, it fails to provide detailed and actionable guidance at the implementation level. For example, with regard to the enforcement of economic sanctions and countermeasures, or the specific scope of diplomatic immunities, the legal provisions remain vague, which may result in misunderstandings or misinterpretations during implementation.

Second, the scope of countermeasures is not clearly defined. While the law grants the state the authority to take countermeasures, it does not clearly specify the types, conditions, or scope of such measures, which may lead to misuse or overuse. In addition, the lack of clear standards regarding the conditions and extent of implementing countermeasures may trigger international disputes.

Third, the law lacks provisions for multilateral cooperation mechanisms and diplomatic consultation platforms. Although it advocates adherence to international law and the safeguarding

of national sovereignty, the design for implementing multilateral cooperation remains weak. As China's interests in international affairs continue to expand, relying solely on unilateral countermeasures is insufficient to effectively safeguard national interests; multilateral mechanisms are necessary for support.

Furthermore, the law lacks clear provisions on human rights protection and the rule of law standards. While the law reflects some intention to protect the rights of overseas Chinese citizens, it does not provide specific clauses concerning human rights protection and legal standards, which can provoke international criticism—especially in handling foreign-related incidents. This may damage China's international image and hinder the country from gaining broader support from the global community.

In addition, the law empowers China to impose economic sanctions, but it lacks detailed stipulations regarding the preconditions, standards, and scope for implementing such sanctions. This could result in arbitrariness and low transparency during enforcement, undermining investor confidence and negatively affecting international economic engagement. Although the law emphasizes protecting the rights and interests of overseas Chinese citizens and enterprises, it fails to provide region-specific or adaptive measures. For instance, China has made extensive investments and has significant numbers of citizens in regions with unstable political situations, where protection is difficult to implement. Yet the current legal framework offers no concrete guidelines in this regard.

5.4. Export Control Law

With the evolving international landscape, the current Export Control Law may not be able to promptly respond to newly emerging security threats—such as the ongoing strategic competition between China and the United States, the prolonged nature of the Ukraine crisis, or escalating tensions in the Taiwan Strait. Moreover, the law may not keep pace with rapid technological advancements, and the control measures might fail to comprehensively cover emerging technologies and products.

In some regions and industries, enforcement of export controls remains weak, hindering the effective implementation of the law. Furthermore, there is a lack of transparency in related policies and detailed requirements, resulting in significant uncertainty for enterprises in meeting compliance obligations.

6. The improvement of China's anti-sanctions legal system

6.1. Promote the formation of a systematic and complete blocking method

In order to make the blocking method more operable in practical application, it is necessary to further improve and improve its existing institutional framework. As a specific improvement measure, it is first necessary to specify the scope of the object of protection, and the EU "Blocking Regulation" stipulates the scope of application from three aspects, namely, clarifying the object of blocking in its appendix, and clarifying the subject of protection and the scope of application in the article. Second, it is necessary to strengthen the severity of punishment and strict enforcement. Article 13 of the Blocking Measures stipulates that if a public institution in the Chinese market fails to make a true report or fails to comply with the prohibitions, it shall only stipulate three administrative penalties: warning, corrective order and fine. In terms of the balance of probabilities, companies will choose to comply with the U.S. secondary sanctions law. Therefore, in order to avoid the ineffectiveness of the interception measures reporting system and the prohibition system, additional civil and criminal penalties may be considered in the subsequent legal development.

Again, set the range of blocked objects to be wider. The blocking system uses a system of prohibition and does not enumerate specific laws and measures in a particular country. Therefore, the scope of interception can be further refined and improved at the legislative level, including the interception of foreign law, law enforcement and judicial extraterritorial jurisdiction in three aspects. These include foreign decrees, administrative regulations, enforcement decisions and measures, court orders for extraterritorial disclosure, court decisions and arbitral court rulings. Finally, as Hong Kong China has developed a complete blocking system, it is also necessary to pay attention to the issue of the convergence of the practice of blocking law in Hong Kong, Macao and Taiwan of China with the Blocking Measures.

6.2. Coordinate to form a mutually reinforcing countermeasures mechanism

To further coordinate and establish a mutually reinforcing counter-sanctions mechanism, improvements to the Anti-Foreign Sanctions Law and its implementation can be made in the following aspects.

First, China currently lacks a dedicated institution to uniformly coordinate and implement counter-sanctions measures. On one hand, the implementation of the Anti-Foreign Sanctions Law requires strong synergy with other laws and regulations. For example, Article 6 lists specific countermeasures. The first measure, “denying visa issuance, refusing entry, revoking visas, or expelling from the country,” pertains to Articles 21, 25, 67, and 81 of the Exit and Entry Administration Law. The second measure, “sealing up, seizing, or freezing movable, immovable, and other types of property within China,” in nature constitutes an administrative enforcement action as stipulated in Article 9 of the Administrative Coercion Law. The third countermeasure, “prohibiting or restricting organizations and individuals in China from engaging in transactions or cooperation with sanctioned entities,” affects nearly all cross-border commercial activities, thereby involving the application of almost all relevant commercial laws and regulations, including the Foreign Trade Law, Export Control Law, Foreign Investment Law, Insurance Law, Securities Law, Maritime Law, Civil Aviation Law, Regulations on the Administration of Foreign-Funded Banks, and more. On the other hand, the authorization clauses for countering foreign economic sanctions are present in China’s National Security Law, Foreign Trade Law, and Anti-Foreign Sanctions Law. Since these laws designate different competent authorities and enforcement bodies, the implementation of countermeasures may result in overlapping jurisdictions or conflicting decisions. Thus, the relationship between the Anti-Foreign Sanctions Law and other existing laws and regulations still requires further coordination.

Considering the above two issues, the implementation of counter-sanctions involves multiple fields and government departments. Therefore, to better coordinate across different sectors and achieve the goals of counter-sanctions, the establishment of a dedicated counter-sanctions agency is highly necessary.

Second, it is necessary to add a “long-arm jurisdiction clause” to the Civil Procedure Law. This means that only when damage is caused by entities or individuals outside China can courts at the place where the harm occurs in China exercise jurisdiction. Such a clause would resolve the issue of Chinese courts being unable to accept certain claims.

Finally, in light of the concise nature and lack of detailed provisions in the Anti-Foreign Sanctions Law, it is urgent for the State Council and relevant departments to develop supporting administrative regulations and departmental rules based on the legislative model of the Blocking Measures.

Regarding the shortcomings of the Foreign Relations Law in terms of operability, implementing details, standards for countermeasures, international image management, and multilateral

cooperation mechanisms, the following suggestions can be made: First, supporting implementation rules for the Foreign Relations Law should be promulgated, clearly defining the responsibilities of relevant departments and detailing operational procedures. For different types of countermeasures, economic sanctions, and diplomatic immunities, more detailed implementation guidelines should be developed to ensure legal operability and transparency. Second, the applicable scope and conditions of countermeasures should be clearly defined to prevent misuse or overuse. An independent review body can be established to assess the legality and necessity of each countermeasure to ensure they align with international law and principles of fairness. In addition, international best practices can be referenced to promote the development of multilateral cooperation platforms, enhance dialogue and communication with other countries and international organizations, and contribute to the improvement of the global governance system. To address issues affecting the international business environment, detailed standards for economic sanctions should be formulated. It should be clarified under what circumstances sanctions are triggered, thereby increasing their transparency and predictability. A compensation mechanism for affected enterprises can also be established to support those impacted by state-imposed foreign economic sanctions and to mitigate negative effects. In terms of the external protection mechanism, targeted citizen protection strategies can be formulated based on the risk conditions of different countries and regions. For example, evacuation plans for high-risk areas should be developed, the flexibility of protection mechanisms enhanced, and rapid response teams established to promptly address emergencies faced by Chinese citizens abroad.

The above measures would enhance the effectiveness of the Foreign Relations Law, ensuring that China handles international affairs more normatively, transparently, and convincingly. Meanwhile, strengthening soft power through international cooperation will help enhance China's overall influence on the global stage.

7. Conclusion

Since the beginning of the reform and opening-up policy, China's economic strength has steadily risen, with continuous improvements in various indicators such as economy and culture. As China's comprehensive national power has grown, its status in the international community has also risen significantly and unmistakably. In response, the United States has increasingly resorted to suppression and sanctions. Although China has always cherished peace and values harmony, the United States has repeatedly used secondary sanctions to inflict harm on Chinese entities and even individuals. In order to safeguard national interests and the security of our citizens, it has become particularly important to establish a counter-sanctions legal framework to block and respond to unlawful interference by the U.S.

The introduction of the Blocking Measures represents China's initial exploration in systematically establishing a framework to prevent the improper extraterritorial application of foreign jurisdiction, paving the way for subsequent legislation in the field of anti-foreign sanctions. The Anti-Foreign Sanctions Law, as China's first national-level comprehensive law on external sanctions, holds significant and far-reaching meaning for both China and the world. It not only demonstrates our firm stance against the improper extraterritorial application of foreign laws and measures, but also subverts the consequences of unilateral sanctions by other countries that have placed Chinese individuals and enterprises in a passive and disadvantaged position. The law serves to protect the status, interests, and normal economic and trade activities of Chinese individuals and organizations on the international stage.

The Foreign Relations Law and Export Control Law also play indispensable roles in China's counter-sanctions process. At the same time, however, we must objectively recognize that the scope

of application for counter-sanctions measures lacks clarity. Moreover, the Anti-Foreign Sanctions Law currently remains largely a framework-level document, with broadly defined and concise provisions; detailed regulations and support mechanisms still need to be further refined.

To fully protect the legitimate rights and interests of China, its citizens, and enterprises both domestically and abroad, it is necessary to take into account the evolving trends of international rule of law and the current state of domestic legal development. Continued efforts are needed to improve the legal “toolbox” for external struggles, promote the formation of a well-structured and complementary Chinese counter-sanctions legal system, and accelerate the construction of a foreign-related legal framework with distinct Chinese characteristics.

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