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Features of the implementation of the mechanism for countering US sanctions in China and Russia

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Abstract: This article is devoted to the existing mechanisms of countering economic sanctions in Russia and China. The choice of these countries is not accidental. Currently, there is quite a small number of instruments of influence on states in the field of international relations. The most effective means are economic sanctions, which are applied against states pursuing policies that are not always convenient for other states. In the modern world, it is Russia and China that are the states against which economic sanctions are being applied quite actively. It is important to conduct a comparative study of the legal mechanisms of opposition to the applied economic sanctions.

Keywords: Comparative study, counter legal mechanism, economic sanctions, counter legal mechanism against economic sanctions.

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Особенности реализации механизма противодействия санкциям США в Китае и России

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Резюме: Данная статья посвящена существующим механизмам противодействия экономическим санкциям в России и Китае. Выбор этих стран не случаен. В настоящее время существует достаточно небольшое количество инструментов воздействия на государства в сфере международных отношений. Наиболее эффективным средством являются экономические санкции, которые применяются против государств, проводящих политику, не всегда удобную для других стран. В современном мире именно Россия и Китай являются государствами, против которых достаточно активно применяются экономические санкции. Поэтому важно провести сравнительное исследование правовых механизмов противодействия применяемым экономическим санкциям.

Keywords: сравнительный анализ, юридический механизм противодействия, экономические санкции

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INTRODUCTION

There is no sign of the waning of global economic sanctions against Russia or China taken by the U.S. These sanctions have had a great influence on the global economy. Restrictive import and export control have hindered the flow of raw materials and intermediate goods, delaying or even stopping the production. In recent years, the U.S. unilateral economic sanctions have shown three major trends. First, the diversification of sanctions, from "primary sanctions" against target countries, to "secondary sanctions" and even "tertiary sanctions"; Second, the scope of application of sanctions has become wider and it has expanded from the trade control to the financial field; Third, its power has become stronger and the use of unilateral economic sanctions has become normal, which seriously violates the fundamental principle of international law of sovereign equality.

LEGAL FRAMEWORK AND NATURE OF U.S. UNILATERAL ECONOMIC SANCTIONS

What are sanctions? While there is no one authoritative definition in international law, the term "sanction" is customarily accepted to refer to political and legal coercive measures short of war taken by one or several states to compel a sanctioned state to change its political or economic decisions [Mohamad, 2015].

Legal Framework of U.S. Sanctions

The legal framework of U.S. sanctions is composed of three interconnected levels: statutes promulgated by Congress, executive orders issued by the President, and directives or rules issued by executive departments of the federal government. General statutes mainly used to authorize economic sanctions include the National Emergencies Act of 1976 (NEA) and the International Emergency Economic Powers Act of 1977 (IEEPA). These statutes are the foundation of U.S. sanctions, authorizing the U.S. to accomplish its national security and foreign policy objectives by taking specific measures (including sanctions), and thus ensuring the domestic legality of unilateral sanctions. The IEEPA, in particular, authorizes the U.S. president to implement economic sanctions to deal with certain usual or extraordinary threat [1]. Second, the U.S. President has authority to issue executive orders pursuant to said statutes to determine the scope and degree of sanctions measures. Currently, President Biden has continued this program by signing into effect, E.O. 14024 "Blocking Property with Respect to Specified Harmful Foreign Activities of the Government of the Russian Federation" on April 15, 2021. These executive orders set the framework for current U.S. sanctions by clarifying each sanction's type, scope, and standard. Third, in completion of a sanction action, certain U.S. federal government departments or offices will subsequently administer sanction laws and regulations by issuing directives or rules. As such, the Department of the Treasury's Office of Foreign Assets Control (OFAC) is responsible

for creating, implementing, and enforcing U.S. sanctions by issuing directives pursuant to executive orders. For example, OFAC has issued 4 directives under E.O. 14024, namely, Directive 1A, "Prohibitions Related to Certain Sovereign Debt of the Russian Federation" [2]. Since the important objective of the U.S.' imposing economic sanctions is to advance its national security and foreign policy goals, sanctions non-compliance is therefore considered a threat to national security or foreign relations. Thus, sanctions non-compliance necessarily can result in steep criminal or civil liabilities.

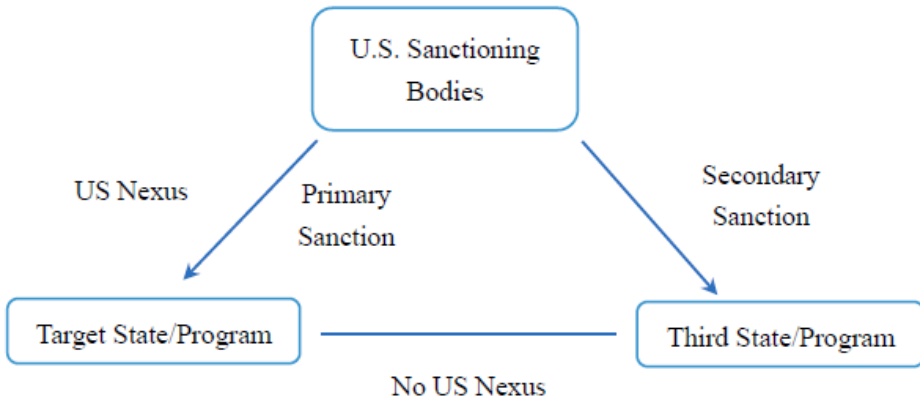
Types of U.S. Sanctions

U.S. sanctions may be primary or secondary, judged by whether a sanction requires a U.S. nexus (a government-sponsored program). Primary sanctions generally apply to U.S. persons and entities, including: (1) U.S. citizens and permanent resident wherever located; (2) entities owned or controlled by U.S. citizens or organized under U.S. law; and (3) all entities and persons physically located in the U.S., regardless of nationality, and apply in situations involving U.S. persons, goods or technologies of the U.S. origin, or activities occurring in the U.S. territory.

Most U.S. sanctions are primary sanctions, which can be further divided into two subtypes: comprehensive or targeted primary sanctions. Comprehensive primary sanctions prohibit all transactions with a specific country or region. U.S. imposes comprehensive sanctions on Cuba, Iran, North Korea, Syria, and the Crimea, DPR, and LPR regions of Ukraine. Targeted primary sanctions generally prohibit any U.S.-nexus transactions with persons listed on OFAC's Specially Designated Nationals (SDN) List, or prohibit specified US-nexus dealing with persons on OFAC's Sectoral Sanctions Identifications (SSI) List. Regarding the primary sanctions, Russia or China, as a nation, is not comprehensively sanctioned by the U.S., while specified Russia-related or China-related persons or activities are restricted or prohibited.

In the form of secondary sanctions, even business activity with no U.S. nexus (e.g., U.S. dollars, U.S. payment system, or U.S. intermediary) can still be subject to U.S. sanctions related to the Russia-Ukraine Conflict. Because of this, non-U.S. companies can be compelled to cease direct or even indirect business operations in sanctioned states for fear of secondary sanction repercussions. A broad definition of secondary sanctions refers to all measures aimed to regulate economic transactions between a third state and a target state [Ruys, Ryngaert. 2020]. In effect, secondary sanctions are implemented by threatening U.S. trade and/or financial restrictions on non-U.S. entities/individuals that transact with a sanctioned target country or within a sanctioned program. The major difference between primary and secondary sanctions is that primary sanctions have a direct U.S. nexus connection while secondary sanctions are related to transactions without a U.S. nexus as presented in the illustration below (Fig. 1).

Figure 1



Purpose of U.S. Secondary Sanctions

Throughout modern history, economic sanctions were used to influence and enforce political measures since World War I by countries such as the U.S. and international organizations such as the United Nations (or previously the League of Nations). Subsequently, the use of economic sanctions by the U.S. has evolved to include a broadened form of “secondary sanctions” as initially utilized in 1996 with the Helms-Burton Act and the Iran and Libya Sanctions Act [3]. Since then, U.S. secondary sanctions as a method of deterrence in international conflicts, have become more familiar with more frequent implementation in recent years.

The main purpose of U.S. secondary sanctions as a deterrence mechanism, is to prevent the circumvention of primary sanctions and to enhance the effect of sanctions overall. On the one hand, a sanctioned target may attempt to circumvent the economic damage or other loss resulting from a U.S. primary sanction by instead cooperating with an alternative third-party non-U.S. company, making the use of said primary sanction less consequential. As such, the use of secondary sanction actions against said third-party counters the option of circumvention by closing this loophole and limiting a target state’s alternative global options. On the other hand, non-U.S. companies also have voluntarily and preemptively ceased its business with sanctioned states from fear of business disruption by secondary sanction application no matter how remote. These above causes and effects lead to a sanctioned state’s comprehensive loss of transaction options thereby impacting it even more by the intended U.S. reprisal.

Lacking U.S. nexus and therefore direct jurisdiction, secondary sanctions do not trigger civil or criminal liabilities as do primary sanctions. Secondary sanctions only regulate the behavior of non-U.S. targets through forms of restrictive economic measures. Such economic sanctions can be divided into two general types: trade and financial restrictions.

Trade sanctions mainly focus on trade activities of third countries' entities/individuals in the U.S. such as exportation and importation restriction [Meyer. 2009]. For example, a non-U.S. business supplying nuclear weapons materials to Iran will be put under secondary trade sanctions. Property and interest of the non-U.S. business located in the U.S. will be blocked or will not be exported. Also, products importation into the U.S. could be prohibited if a foreign person knowingly assisted in activities which led to the imposition of sanctions [4].

Financial sanctions include: 1) Blocking assets. An OFAC secondary sanctioned entity/individual can have its U.S. based, originated or controlled assets blocked. For example, E.O. 13599 blocks U.S.-based assets of entities determined to be "owned or controlled by the Iranian government," including Iran's Central Bank. The order was issued to implement Section 1245 of the FY2012 National Defense Authorization Act that imposed secondary U.S. sanctions on Iran's Central Bank.[5]. 2) Prohibition of the use of U.S. dollars. The U.S. Treasury Department can bar non-U.S. banks from the U.S. financial system. For example, in 2012, the Treasury sanctioned the Bank of Kunlun, together with an Iraqi bank, for helping Iranian banks (including the Bank Tejarat which was on the SDN List) move millions of dollars, and restricted it from accessing the U.S. financial system. 3) Divestment. The state or local government can divest or prohibit mentioned investment activities in Iran. For example, the Comprehensive Iran Sanctions, Accountability and Divestment Act (CISADA) stipulates relevant requirements directing divestment in Section 202. As a result, France's Total withdrew from the South Pars 11 natural gas project jointly established with China National Petroleum Corporation and the National Iranian Oil Company for fear of withdrawal from US investors.

RUSSIA'S NEW COUNTERMEASURES AGAINST U.S. UNILATERAL ECONOMIC SANCTIONS

The economic sanctions imposed against Russia after the annexation of Crimea in March 2014 have had a significant impact on the socio-economic situation of Russia over the past years, and have become especially relevant recently.

The measures that were introduced by the Russian authorities in response to the sanctions had no less impact. At the same time, the consequences of these events for the development of the Russian economy can be assessed in different ways.

At the end of July 2014, the EU and the USA switched from targeted sanctions against private and legal entities to measures against entire sectors of the Russian economy.

As a response to these unfriendly actions, on August 6, 2014 Russian President Vladimir Putin signed an order "On application of special economic measures in foreign economic policy to ensure Russia's security." The Government of the Russian Federation has approved a list of prohibited agricultural products, raw materials and food from countries that have applied sanctions against Russia (including the United States of America, European Union countries, Canada, Australia and the Kingdom of Norway). The corresponding list includes beef, pork, poultry, cheeses and dairy

products, fruit, nuts and other products. However, later, goods that for one reason or another are difficult for Russian producers to replace (seed material, salmon fry) were excluded from this list.

In connection with Ukraine's joining anti-Russian sanctions, retaliatory economic measures were also extended to include that country as well starting January 1, 2016, namely a food embargo similar to the one in force against countries that supported sanctions against the Russian Federation.

Further, every six months, the United States expanded the list of individuals and legal entities subject to various restrictions, and the EU extended the economic sanctions for another six months, while making minor amendments to the sectoral restrictive measures against Russia.

In turn, the Russian Federation, from August 2014 to June 2018, not only did not tighten the food embargo, but on the contrary weakened it by gradually excluding various commodity groups from the list (in particular, on May 27, 2016, the Government of the Russian Federation allowed the import of meat and vegetables intended for the production of baby food).

Of course, the uptick in prices in 2014-2015 had a negative impact on the well-being of Russian citizens. However, the hike in domestic prices has significantly increased the profitability of agricultural and food products produced in the country. Industries and companies that invested in capacity expansion before the devaluation of the Russian ruble or had unloaded capacity were able to expand production.

The Russian government has begun to actively develop an import substitution program aimed at replacing foreign-made goods with domestic ones on the Russian market, which should contribute to achieving the "sacred goal" of all Russian economic science, namely economic diversification.

In particular, Russian food producers were unable to compensate for the effects of the embargo on such commodity groups as live fish and sausage products. For the rest of the product groups, there is an increase in production in 2016-2017 compared to the remote 2013.

Therefore, in general, the food import substitution program should be recognized as successful at that stage.

In this regard, it can be concluded that the countermeasures introduced in August 2014 did not harm the food sector of the Russian economy. In turn, for Western countries, the sanctions imposed turned out to be unprofitable. Thus, the French Research Center in the Field of International Economics (CEPII) in a report published in early July 2016 estimated the export losses of 37 countries that supported sanctions against Russia, with August 2014 to July 2015 in the amount of \$60.2 billion.

The researchers concluded that the bulk of these losses were due to the sanctions themselves, and not to the retaliatory food embargo imposed by Russia. Thus, 78.1% of the total volume of lost profits of European countries relates to goods that are not subject to the Russian trade embargo. The European economy suffered the most – the EU countries bear 76.7% of all losses from restrictions on trade with Russia.

However, the ongoing unrest in Ukraine and the war in Syria have become the reason for the tightening of US sanctions against Russia already in 2018. So, on April 6, 2018, the US Treasury Department announced the introduction of a new package of sanctions against 14 Russian legal entities and 24 individuals (in particular, Oleg Deripaska, Suleiman Kerimov, Igor Rotenberg, Alexey Miller, Andrey Kostin and a number of other persons).

Moscow's response to these actions was not long in coming, and exactly a week later, on April 13, 2018, a bill on retaliatory actions against the anti-Russian policy of the United States was submitted to the State Duma of the Russian Federation. Just a month and a half later, on June 4, 2018, Russian President Vladimir Putin signed Federal Law No. 127-FZ "On Measures to Influence (counteract) Unfriendly actions of the United States of America and other foreign states".

The law provides that measures of influence (counteraction) can be introduced independently of other measures taken. At the same time, counter-sanctions will not apply to the import of vital goods, the analogues of which are not produced in Russia, as well as to goods imported into the country for personal use.

The following counteraction measures are called in the law: termination or suspension of international cooperation in industries that will be determined by the President of the Russian Federation; prohibition or restriction on the import into Russia and export from the country of products and raw materials, the lists of which will be established by the Government of the Russian Federation; prohibition or restriction on participation in the privatization of state or municipal property.

The decision on the application of these measures, as well as other measures, may be taken by the President of the Russian Federation and the Government of the Russian Federation.

The legal assessment of this federal law is ambiguous. Speaking about its criticism, it can be noted that according to Article 114 of the Constitution of the Russian Federation, the Government of the Russian Federation must take measures to ensure the legality, rights and freedoms of citizens, and Article 17 guarantees that these rights are recognized as the highest value. The list of goods proposed by the Government of the Russian Federation and some deputies in the State Duma of the Russian Federation, subject to a ban on imports into Russia, caused a wave of criticism from the medical community and representatives of big business, as it radically limited legal rights and freedoms of citizens (in particular, the provision of medicines not produced in Russia).

In 2022, a new round of economic sanctions against Russia was imposed due to the conflict in Ukraine.

In this article, we will not list all the sanctions imposed on Russia in 2022, but we will name some. US President Joe Biden announced "crushing" sanctions against Russia, providing for:

→ limiting the ability of Russian companies to make payments in dollars, euros, pounds and yen;

→ restrictive measures – the introduction of SDN – blocking of bank assets in American jurisdiction, a ban on dollar transactions, a ban on conducting any transac-

tions with American counterparties for banks: VTB, Otkritie, Novikombank, Sovcombank;

→ restrictive measures – entry into CAPTA – restrictions on correspondent accounts in the USA for Sberbank;

→ other large Russian companies, such as Gazprombank, Rosselkhoz nadzor, Alfa-Bank, Credit Bank of Moscow, Gazprom, Gazprom Neft, are subject to sectoral sanctions that speak of "restrictions on all transactions, provision of financing and other transactions with new debt obligations with a maturity of more than 14 days and new shares";

→ restrictions on the import of high-tech products;

→ restrictions on borrowing from the US and European markets for the largest Russian state-owned companies;

→ personal sanctions implying the freezing of assets against the sons of Secretary of the Security Council of Russia Nikolai Patrushev; Special Representative of the President of the Russian Federation on environmental protection, ecology and Transport Sergei Ivanov; head of Rosneft Igor Sechin, as well as against top managers of VTB and Sberbank;

→ personal sanctions implying the freezing of assets against President Putin, Foreign Minister Lavrov, Defense Minister Shoigu, Head of the General Staff Valery Gerasimov.

On February 28, in response to the closure of the sky for its aircraft, the Russian Federal Air Transport Agency introduced symmetrical restrictions.

On March 3, the head of Roscosmos, Dmitry Rogozin, announced the termination of deliveries of RD-180 rocket engines to the United States. The maintenance of the 24 engines remaining in American use will also cease.

On March 4, Dmitry Rogozin canceled the planned launch of Soyuz-2.1b with 36 British OneWeb communications satellites from the Baikonur Cosmodrome planned on March 5. The rocket was removed from the launch pad, and the spacecraft were placed in one of the buildings.

On March 4, the Ministry of Industry and Trade of the Russian Federation, in response to the sanctions announced by the United States and the European Union against Russian merchant ships, recommended that fertilizer producers refrain from exporting "until carriers resume rhythmic work and provide guarantees for the total completion of the export of Russian fertilizers."

On March 5, in connection with the introduction of numerous sanctions against Russia, including the disconnection of Russian banks from the SWIFT international payment system and the closure of airspace for Russian aircraft, the President of Russia signed a decree according to which the Russian government should determine the list of countries committing "unfriendly actions" against Russia within two days.

On March 14, Vladimir Putin enacted the bill allowing the registration of rights to foreign aircraft that are leased from Russian companies. According to Transport Minister Vitaly Savelyev, by March 22, Russian airlines had transferred almost 800 aircraft to the country's register. On April 1, Russian President Vladimir Putin signed a decree on converting payments for the purchase and leasing of foreign aircraft into rubles.

On April 5, the Minister of Transport of the Russian Federation Vitaly Saveliev announced that a pool of 193 aircraft has been formed for flights abroad, including 148 Sukhoi Superjet 100s and about fifty foreign ones, which were initially purchased by Russian airlines.

On March 14, Russian Prime Minister Mikhail Mishustin signed Decree No. 362, providing for a temporary ban on the export of wheat, meslin, rye, barley and corn to the countries of the Eurasian Economic Union, except Belarus. The ban will be in effect until the end of the 2021/22 marketing year on June 30, 2022. According to the same decree, the export of white and cane raw sugar is prohibited for the period from March 15 to August 31, 2022. The ban does not apply to humanitarian aid and supplies under export licenses issued by the Ministry of Industry and Trade, within the export quota.

On March 23, the Prosecutor's Office of the Russian Federation withdrew from the International Association of Prosecutors, after the Office of the Prosecutor General of Ukraine initiated the process of its exclusion.

On March 29, the Government of the Russian Federation approved the legalization of parallel imports, allowing suppliers of imported products to sell them in the Russian Federation without the permission of the trademark owner. On April 22, the Ministry of Industry and Trade of the Russian Federation determined the list of goods for which parallel imports will be allowed, 50 groups of goods and about 200 brands.

On March 31, the President of Russia signed a decree on gas trade with "unfriendly countries" for rubles. According to it, gas recipients transfer the currency to special settlement accounts opened in Gazprombank, and the financial institution converts it into rubles on the Moscow Exchange.

On April 16, Vladimir Putin signed a law on delisting depository receipts of Russian companies from foreign sites with subsequent conversion into domestic securities. According to this law, the world stock exchanges lose the opportunity to operate with securities of the Russian Federation. This document was published on the official portal of legal information.

On April 27, Gazprom stopped gas supplies to Poland and Bulgaria, which announced their refusal to pay for gas under the proposed scheme. A few hours later, prices for futures contracts for the supply of natural gas soared by more than 23%. On May 21, Gazprom stopped gas supplies to Finland, on May 30 – to the Netherlands, on May 31 – to Denmark, as well as for Shell Energy Europe to Germany.

On May 3, the President of Russia signed Executive Order on retaliatory special economic measures in connection with unfriendly actions of certain foreign states and international organisations. According to the document, a ban is introduced for state authorities at all levels, as well as for organizations and individuals under the jurisdiction of the Russian Federation, to make transactions, including the conclusion of foreign trade contracts, with legal entities, individuals and enterprises under their control, in relation to which special economic measures are applied. It is also prohibited to fulfill obligations to persons who have fallen under sanctions under completed transactions, including transactions under concluded foreign trade contracts, provided that such ob-

ligations are not fully fulfilled or not fulfilled. In addition, there is a ban on the export of raw materials or products outside Russia, the extraction or production of which takes place in the Russian Federation, taking into account the fact that they are supplied in favor of persons subject to sanctions, or by persons subordinate to them, in favor of other persons. The Government of the Russian Federation was instructed to approve the list of persons subject to sanctions within 10 days, to determine additional conditions for classifying transactions as it is, the fulfillment of obligations under which and the commission of which are prohibited according to the decree.

On May 11, the Government of the Russian Federation approved a list of legal entities against which retaliatory sanctions are being imposed. The list includes 31 companies, most of which belong to the Gazprom Germania group. Any transactions are prohibited with respect to these persons. On the same day, all the above-mentioned companies stopped receiving gas from Russia.

On May 22, the President of Russia signed a decree on the temporary procedure for payments on Eurobonds. The document assumes that Moscow will henceforth consider its obligations fulfilled "if they are fulfilled in rubles in an amount equivalent to the value of obligations in foreign currency" at the exchange rate on the day of the transfer of funds to the National Settlement Depository (NSD), through which they will be transferred to creditors. (Previously, NSD was subject to restrictive measures of the European Union.) The next day, the Ministry of Finance of the Russian Federation made the first payments in rubles on Eurobonds with maturities in 2027 and 2047.

On June 21, the State Duma of the Russian Federation in the second and third readings immediately adopted a law allowing Russian companies to import goods without the permission of the copyright holder, thereby legalizing "parallel import", that is, the import of goods into the country without the permission of the copyright holder. The law applies exclusively to the categories of goods approved by the Ministry of Industry and Trade in May 2022. Among them are individual trademarks, for example, Bentley, Apple, Siemens, Dyson and product categories, for example, railway locomotives, seedlings.

Thus, we see that at present a legal mechanism for countering economic sanctions is being actively built in Russia.

CHINA'S NEW COUNTERMEASURES AGAINST U.S. UNILATERAL ECONOMIC SANCTIONS

Since 2018, U.S. has unilaterally provoked a trade dispute between China and U.S. On May 15, 2019, U.S. added Huawei Technologies Co., Ltd. to the "entity list" of export controls. Considering that U.S. has taken the economic sanctions as a common means to achieve its diplomatic goals, the sanctions have become a "Sword of Damocles". It is extremely necessary to sort out the legal mechanism of economic sanctions and countermeasures and explore countermeasures against economic sanctions. On the one hand, China must prepare for countermeasures for possible economic sanctions, which is an inevitable requirement to maintain national economic security. On the other hand, improving China's foreign economic sanctions legal system has become a necessary means to maintain international order and economy interest.

Provisions on Unreliable Entity List

On September 19, 2020, China's Ministry of Commerce announced "Regulations on the List of Unreliable Entities" (hereinafter referred to as the "Regulations"), which were to take effect immediately. China has established an unreliable entity list system, and has taken corresponding measures against certain specific behaviors of foreign entities in international economic and trade and related activities. The working mechanism participated by the relevant departments of the central state organs is responsible for the organization and implementation of the unreliable entity list system.

If the working mechanism finds or determines through investigation that foreign entities have the following behaviors: jeopardizing China's national sovereignty, security, and development interests; violating normal market transaction principles, interrupting normal transactions with Chinese enterprises, other organizations or individuals, or if discriminatory measures are taken against Chinese enterprises, other organizations or individuals, which seriously damage the legitimate rights and interests of Chinese enterprises, other organizations or individuals, the working mechanism may include such foreign entities on the list of unreliable entities .

The working mechanism will make a decision on whether to include the foreign entity on the list of unreliable entities based on the findings of the investigation and comprehensively consider the following factors, and announce it: harm to China's national sovereignty, security, and development interests the degree of damage to the legitimate rights and interests of Chinese enterprises, other organizations or individuals; whether it complies with the prevailing international economic and trade rules; and other factors that should be considered.

For foreign entities included in the list of unreliable entities, the working mechanism may decide to take one or more of the following measures according to the actual situation, and make an announcement: restrict or prohibit them from engaging in China-related activities. Import and export activities; restrict or prohibit their investment in China; restrict or prohibit the entry of their relevant personnel, means of transportation, etc.; restrict or cancel the work permit, stay or residence qualification of their relevant personnel in China; give a corresponding amount according to the seriousness of the circumstances Fines; other necessary measures.

Blocking Measures [6]

On January 9, 2021, China's Ministry of Commerce promulgated the Measures for Blocking the Improper Extraterritorial Application of Foreign Laws and Measures (hereinafter referred to as the "Blocking Measures"), which is the preliminary practice of blocking legislative work in China. There are 15 articles in the full text of the "Blocking Measures", most of which are macro-level system regulations, which need to be further refined and implemented by relevant laws and regulations and specific rules in the future. In addition, the "Blocking Measures" are only applicable to situations where the extraterritorial application of foreign laws and measures improperly prohibits or restricts normal economic and trade and related activities between Chinese

entities and third countries (regions) entities, and cannot block foreign laws and measures in the economic and trade field.

The "Blocking Measures" apply to the extraterritorial application of foreign laws and measures, which violates international law and basic norms of international relations. It also improperly prohibits or restricts Chinese citizens, legal persons or other organizations and third countries (regions) and their citizens. It allows legal persons or other organizations conduct normal economic and trade related activities.

Article 5 of the "Blocking Measures" stipulates the reporting obligations of Chinese entities when foreign laws and measures prohibit or restrict their normal economic and trade and related activities with third-country entities, and stipulates a 30-day report as time limit. Companies may be penalized if they fail to report as required.

Article 9 of the "Interruption Measures" stipulates the right of claim of Chinese subjects, that is, if one party fails to implement the Chinese ban and causes losses to the Chinese subject of the other party, it may sue (except for exempted subjects). In addition, if a Chinese citizen, legal person or other organization suffers losses due to a judgment or ruling made in accordance with foreign laws within the scope of the injunction, the Chinese citizen, legal person or other organization may file a lawsuit in a people's court according to law, claiming to benefit from the judgment or ruling parties to compensate for losses.

Anti-Foreign Sanctions Law [7]

On June 10, 2021, the Anti-Foreign Sanctions Law of the People's Republic of China came into effect. This law is China's first special anti-foreign sanction law, which provides support and guarantee for China's legal anti-discriminatory measures against foreign countries.

Countermeasures include the situations described in Articles 3 and 15 of the Anti-Foreign Sanctions Law. Specifically, the countermeasures include: "discriminatory restrictive measures" of foreign countries have "interfered in China's internal affairs"; foreign countries, organizations or individuals "implement, assist, and support acts that endanger my country's sovereignty, security, and development interests." "Internal affairs" and "discriminatory measures" should be understood broadly, regulation, sanctions and others (procurement, investment, entry) and China-specific bills.

According to Articles 4 and 6 of the Anti-Foreign Sanctions Law, relevant departments of the State Council may decide to include individuals and organizations that directly or indirectly participate in the formulation, decision-making, and implementation of discriminatory restrictive measures into the countermeasures list. Restrictive measures also include: refusing to issue visas, denying entry, canceling visas or deporting from the country; sealing, seizing, freezing movable, immovable and other types of property within the territory of my country; prohibiting or restricting organizations and individuals in transactions, cooperation and other activities; other necessary measures. In addition, for acts that endanger country's sovereignty, security, and development interests, in addition to the provisions of the Anti-Foreign Sanctions Law, relevant laws, administrative regulations, and departmental rules may provide for other necessary countermeasures. The relevant departments of the State Council may, in accordance with their respective responsibilities

and tasks, decide to take one or more of these measures against the relevant individuals and organizations based on the actual situation.

According to Article 5 of the Anti-Foreign Sanctions Law, the targets of countermeasures include: individuals and organizations that directly or indirectly participate in the formulation, decision-making, and implementation of discriminatory restrictive measures. The following individuals and organizations are meant: the spouses and immediate family members of individuals included in the counter-list; senior managers or actual controllers of organizations included in the counter-list; organizations in which individuals included in the counter-list serve as senior managers; counter-list individuals and organizations actually control or participate in the establishment and operation of organizations. Based on the aforementioned provisions, the scope of the object of countermeasures includes: foreign organizations (including overseas branches of Chinese entities), individuals, excluding foreign countries; departments and officials of multilateral organizations; entities that have a specific relationship with the objects of the countermeasure list. At the same time, foreign organizations and individuals can be divided into foreign entities that formulate, decide, and implement "discriminatory restrictive measures" and foreign entities that implement and assist "discriminatory restrictive measures" in terms of their behavior.

CONCLUSION

Anti-sanction legal mechanism has the characteristics of professionalism, technologic complexity, and it is necessary for each country to be familiar with legal mechanisms, and gradually establish international legal principles reflecting Russia and China's values. Russia and China should further improve domestic laws dealing with international trade, investment, financial and economic frictions, take a proactive attitude to deal with various unfavorable situations through various legal systems. Retaliatory measures against other countries' trade protectionism and unilateralism will not only deter trade protectionist forces, but also will enhance the strength and effectiveness of both our countries' foreign trade, investment, financial and economic negotiation positions, as well as effectively enhance our countries' participation in the international economic governance system. It will also strengthen Russian and Chinese voice in the world economy, and guide the development of the international economic order in a direction that is beneficial to our countries' national interests and values.

A better approach for Russia and China is active employment of international rules to deal with primary and secondary sanctions of the U.S., and work together to build a counter sanctions defense system. First of all, we need to actively participate in the formulation of international rules and build an ecological institutional network. The "hybrid territorial and personal" jurisdiction proposed by the United States does not conform to the jurisdictional principles of international law. The legitimacy of secondary sanctions was already denied in 1996 by UN General Assembly Resolution 51/22. At the same time, both Russia and China could give full play to the cooperation mechanism of the "Belt and Road" initiative, strengthen institutional ties with countries along its route for win-win cooperation, and combine cooperation frameworks of

Shanghai Cooperation Organization and other cooperation frameworks carry out in-depth multilateral and regional cooperation, mobilize partner countries' enthusiasm for participation, governance initiatives, innovation and synergy, as well as contribute to the construction and development of the international anti-sanction system.

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