

The Construction Path and Perfection of China's Anti-Sanction System from the Perspective of Multilateralism

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Abstract. Nowadays, the influence of the trend of multilateralism is gradually expanding. However, unilateralism driven by anti-globalization also tends to rise. Unilateral sanctions imposed by Western countries on China are one of the manifestations of unilateralism. Under this background, this paper combs the construction path of China's anti-sanction system by literature analysis and combining with relevant laws, identifies the problems of vague expression principles, lack of coordination among some laws and regulations, and insufficient multilateral cooperative countermeasures. Through comparative study, this paper extracts the experience of anti-sanctions practice between Russia and the European Union and then forms perfect suggestions to clarify the legislative expression of anti-sanctions, speed up the standardized and hierarchical construction of the legislative system, and enhance the multilateral cooperative counter-measures ability. Through this study, the academic circles can further clarify the understanding of the stage characteristics, practical difficulties and perfect measures in China's anti-sanctions legislation. This paper provides a reference for the construction of China's anti-sanction system.

Keywords: Anti-sanction multilateralism, anti-foreign sanctions law of China, Russia anti-coercion instrument

1. Introduction

In the present world, the trend of globalization is irreversible. Adhering to the principle of multilateralism in handling international affairs has increasingly become a common choice among countries. Multilateralism refers to the institutional arrangement based on the universal code of conduct to coordinate the relations between three or more countries and carry out collective actions [1]. Its main purpose is to seek cooperation between countries and achieve mutual benefit and win-win results in accordance with the norms and principles of international law. After the Second World War, many international organizations were established one after another, which further promoted the spread of multilateralism. China strictly abides by the requirements of multilateralism based on the basic principles of international law, solves relevant international problems in accordance with international law, maintains and improves the multilateral system centered on the United Nations, and regards multilateralism as a means to deal with global challenges. However, anti-globalization, trade protectionism and ultra-nationalism are also quietly gestating. Anti-globalization represents the process of weakening interdependence among countries [2]. Since 2019, the United States paralyzed

the Appellate Body by obstructing judicial appointments, making the World Trade Organization inoperable [3]. Unilateral sanctions have become a tool for some countries to bypass international law and unilaterally impose restrictions and punishments [4]. Western countries wantonly imposed unilateral sanctions, which seriously harmed the interests of other countries and posed new challenges to multilateralism.

In order to counter the unilateral sanctions imposed by Western hegemonism, effectively safeguard China's sovereignty and national interests, and firmly safeguard the principle of multilateralism, China has continuously promulgated and improved relevant laws and regulations and established China's anti-sanctions system. In international law, anti-sanction is usually defined as an antagonistic measure or an act of demonstrating self-defense rights in response to the internationally wrongful acts of other countries [5]. Influenced by the rising trend of anti-globalization in western countries and the international environment, the National People's Congress Standing Committee (NPCSC) passed the People's Republic of China (PRC) Anti-Foreign Sanctions Law (hereinafter referred to as the Anti-Foreign Sanctions Law) in 2021 and authorized the Government of China to sanction relevant individuals and entities in other countries by means of asset restriction and travel freeze. Thus, it is critical to study the construction path of a series of legal systems to clarify the internal logic of anti-sanctions laws, promote the improvement of anti-sanctions legislative system and maintain multilateralism. In this paper, literature analysis and case introduction will be used to study related issues, trying to find feasible methods.

2. Literature review

In today's world, peace and development have become the themes of the era. Building a new type of international relations characterized by mutual respect, fairness, justice, and win-win cooperation is increasingly becoming the consensus of the international community. However, in order to consolidate their hegemonic position, the western countries intermittently imposed unilateral sanctions. In this context, improving the anti-sanction system has increasingly become one of the key issues in China's academic research.

At present, academic circles have made remarkable achievements in anti-sanction legislation, institutional dilemma and international reference. The academic circles have had insight into and reflected on the problems exposed by China's anti-sanction laws and systems in the current practice and learned from the advanced anti-sanction systems of Russia, the European Union and other international social entities. In terms of research content, the academic circles have realized that China needs to speed up the improvement of the anti-sanction legislative system and the domestic law system based on the anti-sanction model, strive for more initiative in judicial jurisdiction, and use justice to offset the negative impact of unilateral sanctions imposed by other countries on the citizens and society [6]. China needs to actively participate in multilateral cooperation and actively use the international dispute settlement mechanism to resolve conflicts. China should interpret the international treaties and basic norms of international law under World Trade Organization (WTO) rules in good faith, strive to leave a strong judicial precedent on the legality of unilateral sanctions and secondary sanctions, provide an international legal basis for other countries to resort to sanctions, strengthen the credibility of multilateral organizations in restricting unilateral sanctions, and promote the perfection of international law [6].

Although academic research has achieved the above results, there are still some shortcomings. First, most of the current research focuses on the Anti-Foreign Sanctions Law, and there is a lack of research on other anti-sanctions laws and regulations. Second, most of the current research focuses on the anti-sanction system itself, and the number of studies linking it with specific fields such as

data security and multilateralism is limited. Based on the above research gap, this paper systematically examines the evolution of China's anti-sanction system, analyzes the realistic dilemma, and puts forward the improvement path by drawing lessons from international experience.

3. Overview and deficiency of China's anti-sanction system

3.1. Review of China's anti-sanction system

At the beginning of the founding of the country, Western developed countries-imposed sanctions on the country, implementing political isolation, economic blockade and military embargo. However, at that time, China's laws did not explicitly stipulate anti-sanctions, and even there were few provisions that reflected the nature of anti-sanctions. Anti-sanctions rely more on non-legal means such as administration and diplomacy. Taking the Korean War as an example. In October 1950, the Korean War broke out. On December 2, the US Department of Commerce announced a comprehensive embargo on China, prohibiting the export of all military and strategic materials; On December 16th, the US government issued an order to freeze all public and private assets of China in the United States. Subsequently, China's State Council immediately countered it by freezing all public and private assets of the United States in China and stopping foreign exchange settlement and trade with the United States. China has also continued to implement the "one-sided" strategy, deepened its cooperation with eastern bloc headed by the Soviet Union, and publicly condemned the American blockade in many international organizations. However, during this period, the anti-sanction measures were single, mainly relying on diplomatic and administrative measures, and the degree of rule of law was extremely low. In addition, it is also influenced by China's comprehensive national strength, international environment and other factors, and the anti-sanction effect is limited, which makes it difficult to safeguard China's core interests.

After the reform and opening up, the number of anti-sanction clauses in China's laws has increased, focusing on the fields of economy and national defense. These provisions provide a concrete legal basis for the enforcement of anti-sanctions, making it more legitimate. These laws objectively provided legal protection for the rapid development of China's economy during the period of reform and opening up. However, their expressions are still relatively principled, and the specific path of implementation is lacking, and the number of clauses is still insufficient on the whole. The problems above restrict the enforcement efficiency of anti-sanctions and call for the birth of specialized anti-sanctions laws and regulations.

In recent years, the Sino-US trade war has intensified. A new practice in trade war is to use export control measures in some key production factors [7]. In May 2019, the Bureau of Industry and Security of the U.S. Department of Commerce listed Huawei and its 68 non-U.S. affiliates in the "Entity List", and then announced that it would make a list of unreliable entities for China for the first time. In this context, China has successively promulgated two special anti-sanctions departmental regulations, namely, The Provisions on the Unreliable Entity List and Rules on Counteracting Unjustified Extra-territorial Application of Foreign Legislation and Other Measures, which have filled some gaps in the legal system. The above laws have safeguarded the legitimate interests of Chinese enterprises and defended China's sovereignty to a certain extent and played a certain positive role. However, the scope of its application is still vague, and the specific implementation mechanism is not clear. Only the general framework is constructed, and the detailed rules still need to be improved.

In order to make up for the shortcomings mentioned above, in 2021, China promulgated the Anti-Foreign Sanctions Law, which made the anti-sanctions system have the first specialized anti-

sanctions law. Subsequently, in 2025, Provisions on the Implementation of the Anti-foreign Sanctions Law of the People's Republic of China was issued. This further expands the number of high-level laws in the anti-sanctions system, provides a clear basis and implementation rules for anti-sanctions law enforcement, improves the deterrence of anti-sanctions, and provides a solid guarantee for the rule of law against unilateral sanctions. During this period, the anti-sanction legislation paid attention to the enrichment of legal level and made a transition from passive defense to deterrence.

3.2. Deficiency of China's anti-sanction system

The statement is phrased in a principle-based and vague manner. As the first special anti-sanction department regulation in China, the Provisions on the Unreliable Entity List contains 14 clauses, which initially establishes an anti-sanction framework in the economic field with the State Council as the main executive organ. However, some of its provisions have the problem of generalization, and there is room for improvement. For example, Article 13 stipulates that "A foreign entity may apply for its removal from the Unreliable Entity List, the working mechanism shall decide whether to remove it based on actual circumstances". However, the application process, content and supporting materials are not clearly defined. In the stage of policy implementation, this vague expression will easily increase the resistance of foreign entities to declare, reduce the efficiency of administrative review, increase the compliance cost of market participants, and cause unnecessary policy risks and economic losses.

There is lack of coordination among some laws and regulations. At present, China's anti-sanction system is improving day by day. However, due to many differences in legislative intent, legislative background and legislative time, some laws and regulations are inevitably in conflict, and it is easy to cause disputes in practice [8]. For instance, article 33 of Law on Foreign Relations of the People's Republic of China gives the State Council the right to take countermeasures and stipulates that "Decisions made pursuant to the first and second paragraphs of this Article are final." However, article 13 of The Provisions on the Unreliable Entity List gives the State Council the power to re-examine the decisions made and decide whether to remove the relevant entities from the list according to the re-examination results. There is institutional tension between them, which challenges their application.

The ability of multilateral cooperative countermeasures is insufficient. At present, the multi-polarization pattern of the world is accelerating, and the status of the American superpower is challenged, and the effectiveness of its unilateral sanctions is also greatly reduced. Therefore, Western countries, led by the United States, are actively seeking coordinated sanctions from many countries [9]. However, China relies more on the domestic anti-sanction system, and the application of the international dispute settlement mechanism is slightly insufficient, which is asymmetric with the sanctioned situation. At present, China's domestic anti-sanction system is not closely connected with the international dispute settlement mechanism, which restricts the effectiveness of multilateral cooperative countermeasures. For instance, Article 2 of the Anti-Foreign Sanctions Law stipulates that "maintaining the international system with the United Nations as the core and the international order based on international law" provides a legal basis for China to deal with illegal unilateral sanctions, but it does not further stipulate the specific circumstances and methods of using multilateral mechanisms to resolve unilateral sanctions. Moreover, China's anti-sanction system pays more attention to passive defense, and the deterrent effect needs to be improved.

4. Practice and enlightenment of sanctions and counter-sanctions in developed countries or regions such as Russia and the European Union

In today's world, although peace and development have become the theme of the times, local wars and regional disputes still exist, and the division of western camps is more obvious. In this context, the anti-sanction systems of Russia and the European Union are becoming more and more mature, which can be used for reference by China.

4.1. Practice and enlightenment of sanctions and counter-sanctions in Russia

Since 2006, Russia has consistently followed a hierarchical approach of "presidential decree establishing the framework, government resolutions for detailed implementation, departmental regulations for actual enforcement" to improve its anti-sanction legislative framework [10]. Russia first pays attention to the formulation of high-level laws and strives to provide a more comprehensive and perfect legal basis. After perfecting the high-level laws, in order to cope with the rapidly changing reality, Russia gradually shifted its legislative focus to presidential and government decrees with simpler procedures and more specific contents. The dynamic evolution of this legislation shows that its internal logic is to improve the legal basis, implement the law flexibly and diversely, and improve the effectiveness of anti-sanctions.

4.2. Practice and enlightenment of sanctions and counter-sanctions in the European Union

In 2023, the EU promulgated Anti-Coercion Instrument. The law has strong flexibility in actual operation. The Regulation on Anti-Coercion Instrument, on the basis of reserving the possibility of consultation between the EU and third countries, sets up a large number of comprehensive anti-sanctions measures, and also establishes a mechanism for sanctions exemption and review. It not only ensures the effectiveness of anti-sanctions but also minimizes the cost of anti-sanctions. By presupposing a clear result of anti-sanctions for the third country, it forces it to re-examine the gains from the implementation of sanctions before deciding whether to implement sanctions, thus affecting its political choice [11]. This makes this law have a defensive function, and at the same time, it has played a deterrent role to a great extent.

5. Suggestions on perfecting China's anti-sanction system

5.1. Clarifying the legislative expression of anti-sanctions

China can introduce relevant amendments, implementation rules and other laws and regulations, and make clear the vague areas of the law through judicial interpretation and implementation rules, so as to uniformly apply the standards. At the same time, optimize the relevant institutional settings, workflow and other supporting contents. For example, in view of the problems related to the application process mentioned above, the National People's Congress can clarify the content, form, supporting materials and matters needing attention of the application and at the same time, require the Ministry of Commerce of the State Council to refine its internal institutions. In the official website of the Ministry of Commerce, there have been cases in which people were not clear about the law enforcement agencies stipulated in the list of unreliable entities. This practice reduces the legislative risk, on the other hand, it also reduces the compliance cost of market participants and improves the legal predictability.

5.2. Accelerating the hierarchical standardization of the legislative system

China can follow Russia's experience in building an anti-sanction system, speed up the revision and improvement of high-ranking laws, and then introduce implementation methods and enforcement rules according to high-ranking laws and actual conditions. In this context, referring to the experience of Russian government orders, the government has issued a large number of departmental regulations to enhance the practical adaptability and flexibility of anti-sanctions. In addition, it is also necessary to clarify the priority of application among existing anti-sanction laws, clarify the priority of application of laws, eliminate the conflict of rules, and ensure the unity and stability of law enforcement.

5.3. Enhancing the ability of multilateral cooperative countermeasures

Multilateralism gives a standardized form to negotiation, decision-making, implementation and supervision, which helps to find a balance between the absolute strength of a big country and its need to win the support of other countries [12]. At present, China needs to promote the connection between the domestic anti-sanction system and the international dispute settlement mechanism, and safeguard China's core interests from both domestic and international dimensions. China can follow the example of the EU, leaving room for bilateral or multilateral consultation before using anti-sanction tools, and strive to protect the common interests of both sides to the maximum extent. People should also design clauses with deterrent effect to reduce the gains gained by sanctions countries in implementing sanctions, thus forcing them to give up sanctions. In addition, China should also promote the reform of the international dispute settlement mechanism, improve the voice of developing countries, and promote the fairness and effectiveness of the mechanism.

6. Conclusion

China's anti-sanction system is a significant section of China's foreign-related rule of law system, which plays an important role in safeguarding China's national sovereignty, security and development interests and promoting the trend of multilateralism. Studying its construction path is a necessary prerequisite for correctly understanding the internal logic of the counter-sanctions system and improving it. This paper divides the development of China's anti-sanction system into four stages with the first appearance of specific anti-sanction clauses, the revision of specific anti-sanction laws and the promulgation of the Anti-Foreign Sanctions Law as the dividing point, and combs its evolution. From this, this paper holds that there are some problems in the existing system, such as relatively principled legislative expression, lack of coordination between laws and regulations, and insufficient multilateral cooperative countermeasures. By studying the practice of anti-sanctions in Russia and the European Union, this paper holds that China should further clarify the legislative expression of anti-sanctions, speed up the hierarchical and standardized construction of the legislative system, and improve the ability of multilateral cooperative countermeasures, so as to provide a basis and solid guarantee for anti-sanctions law enforcement.

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