Countering, Blocking and Referring — The US "Long-arm Jurisdiction" and China's Countermeasures

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Abstract: In the context of trade friction between China and the United States, ignoring international law and violating the principles of minimum contacts and due process under its domestic law, the United States has frequently abused its "long-arm jurisdiction" to improperly sanction Chinese enterprises and individual citizens, triggering the ZTE case, the Cathy Meng case and other cases that have drawn wide attention from the international community, which have caused great losses and injuries to Chinese enterprises and individual citizens. In order to counter and block the improper "long-arm jurisdiction" of the US, China has actively built a defense system following the principles of international law. In 2020 and 2021, China successively promulgated the Law on Countering Foreign Sanctions, the Export Control Law, the Measures for Blocking the Improper Extraterritorial Application of Foreign Laws and Measures, and the Provisions on the Unreliable Entity List. This paper aims to learn from the legislative experience of the United States and the European Union in countermeasures and blocking, explore the possible deficiencies, defects and ideas of amendment in the current legislative practice through the research and analysis of the provisions of the above four regulations, and call for China to issue supporting laws and regulations as soon as possible to refine the principle provisions and enhance the effectiveness levels of relevant laws and regulations through legislation of the Nation People's Congress.

Keywords: Long-arm Jurisdiction, Principle of Minimum Contacts, Principle of Due Process

I. DEFINITION AND APPLICATION PRINCIPLES OF "LONG-ARM JURISDICTION"

A. Definition of "Long-arm Jurisdiction"

"Long-arm jurisdiction" derives from the civil action in the United States. If the defendant is aware of and has committed an act in the court that creates liability, and is entitled to obtain a right under the law of the court, the court has jurisdiction over the action arising from the act, and the court can exercise jurisdiction

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over persons outside the state by virtue of that act. Later, the scope of "long-arm jurisdiction" is extended internationally. Various states have promulgated the Long-arm Statutes, which authorize US courts to exercise special jurisdiction over foreigners.

From the perspective of the judicial practice of US courts, the Black's Law Dictionary interprets and defines "long-arm jurisdiction", extraterritorial jurisdiction, and international jurisdiction. "Long-arm jurisdiction" refers to the jurisdiction enjoyed by the court over the defendant who does not live in the place of the court but has some connection with the court. Extraterritorial jurisdiction means that the court has the ability to exercise jurisdiction outside the place of the court breaking the principle of territoriality. International jurisdiction is the power of the court to govern disputes between different states or parties from different states[1].

In the context of trade friction between China and the United States, the State Council Information Office of China issued a white paper entitled "The Facts and China's Position on China-US Trade Friction"[2] on September 24, 2018, defining "long-arm jurisdiction" in the Chinese position and context, which refers to the practice of extending the jurisdiction of domestic laws and regulations to entities outside the territory. It also stressed that the United States had violated the application principles of "long-arm jurisdiction" by continually expanding its scope of application and China's firm opposition to it.

This paper holds that the concept of "long-arm jurisdiction" in the United States is essentially a type of extraterritorial jurisdiction that applies domestic laws at the legislative, judicial and administrative levels in an extraterritorial manner under the system of separation of powers. Its characteristics are to transcend the territorial principles, nationality principles, protection principles and universal jurisdiction established in international law for extraterritorial application of domestic laws. Relying on the Long-arm Statutes of local states, and without any special long-arm regulation, the federal court of the United States can also use various states' Long-arm Statutes to exercise the extraterritorial

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1 Extraterritorial jurisdiction is a court's ability to exercise power beyond its territorial limits. International jurisdiction is a court's power to hear and determine matters between different countries or persons of different countries. Long-arm jurisdiction is jurisdiction over a nonresident defendant who has had some contact with the jurisdiction in which the petition filed.

2 The State Council Information Office of China, *The Facts and China's Position on China-US Trade Friction* White Paper News Conference, http://www.scio.gov.cn/xwfbh/xwbfbh/wqfbh/37601/38980/index.htm (Last Visited on March 1, 2023).

jurisdiction of the United States laws.

B. Application Principles of "Long-arm Jurisdiction"

1. Principle of Minimum Contacts

In the middle of the 20th century, with the rapid economic growth of the United States and the increasing frequency of international trade, US courts needed to establish the basic principle of criminal jurisdiction over foreigners as legal persons. In the case of *International Shoe Co. v. Washington (1945)*, the United States Supreme Court established the principle of minimum contacts as a prerequisite for the application of "long-arm jurisdiction".[3] The court can declare jurisdiction over a defendant whose domicile is not in the court place only if it has a "minimum contact" with the defendant. The standard of "minimum contacts" is that the plaintiff proves that his claims are related to the defendant's association with the court, and that the defendant has engaged in relevant commercial activities at the court venue. In the case of *World-wide Volkswagen Corp v. Woodson (1980)*,[4] the "minimum contacts" standard was further clarified and consisted of two elements: "purposeful utilization" and "relevance". "Purposeful utilization" means that the defendant whose domicile is outside the court place conducts a certain behavior in the court place on purpose, and "relevance" means that the dispute has a considerable degree of correlation with the defendant's behavior in the court place.

From the establishment and interpretation of the principle of minimum contacts by US courts, it can be seen that the premise for the United States to apply "long-arm jurisdiction" is that the disputes submitted to the court arise from the minimum contacts, which is established by the defendant in the court place based on subjective purposes, and the behavior causing the dispute has a considerable degree of correlation with the court where the defendant is located. How to determine that the defendant subjectively has a certain purpose in the court place, whether the defendant's burden of proof is too heavy, and how to judge the "considerable degree of correlation" standard in relevance all make the application of the principle of minimum contacts greatly uncertain, and therefore there is a lot of room for flexible interpretation. In recent years, the US government has frequently exercised "long-arm jurisdiction" over foreign

3 See *International Shoe Co v.Washington*, 326 US 310 (1945).

4 See *World-wide Volkswagen Corp v. Woodson*, 444U.S.286 (1980).

entities, including China, based on an expanded interpretation of the principle of minimum contacts.

2. Principle of Due Process

The principle of due process is the core principle when the United States exercises "long-arm jurisdiction". Its origin lies in the Fourteenth Amendment of the United States Constitution, and its connotation mainly includes fairness, reasonableness and foreseeability.

In the case of *Insurance Corp. of Ireland v. Compagnie des Bauxites de Guinee (1982)*, the court held that the exercise of extraterritorial jurisdiction over persons is subject to due process, which is a limitation of judicial power rather than a matter related to sovereignty.[5]

In the case of *World Wide Volkswagen Corp. v. Woodson*,[6] the Supreme Court of the United States summed up the factors that determine the reasonableness of exercising "long-arm jurisdiction", including whether the burden of the defendant is excessive, whether the defendant intentionally carries out activities in the court place, and whether the plaintiff is convenient in obtaining relief. In addition, in this case, the Supreme Court also explained the connotation of "foreseeability" in the principle of due process, which not only includes the possibility of the auto products involved in the lawsuit entering the market of the court place through import, but also involves the possibility that the defendant's behavior and the association between the defendant and the court place made him possibly foresee and should have foreseen this possibility.

In the case of *Burger King Corp. v. Rudzewicz*,[7] the standard of reasonableness was supplemented, with the court holding that in the specific application of "long-arm jurisdiction", the following five factors must be considered: (i) how much burden the defendant will bear if he/she responds in the court place; (ii) the magnitude of benefits involved during the court's hearing of the dispute; (iii) whether the courts in the court place can most effectively deal with disputes in terms of the judicial system; (iv) the convenience and effectiveness of the relief received by the plaintiff; (v) whether it is conducive to the promotion of social policies.

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5 See *Insurance Corp. of Ireland v. Compagnie des Bauxites de Guinee*, 456 US 694 (1982).

6 See *World Wide Volkswagen Corp. v. Woodson*, 100 S. Ct. 564 (1980).

7 See *Burger King Corp. v. Rudzewicz*, 471 U.S. 462 (1985).

II. STATUS QUO OF THE UNITED STATES USING "LONG-ARM JURISDICTION" TO IMPOSE IMPROPER SANCTIONS ON CHINA: MAIN WAYS AND IMPROPRIETY

A. Export Control Combining Legislative and Administrative Measures: ZTE Case

In 2012, ZTE sold a batch of products containing hardware and software products from US technology companies to Iranian telecommunications companies. The sale was suspected of violating US export bans on Iran. The US Department of Commerce launched an investigation and imposed export controls on ZTE and its three subsidiaries on March 7, 2016, requiring US suppliers to apply for export licenses to supply such products to ZTE on the ground of "ZTE violating US export control laws".

On March 21, 2016, ZTE reached a provisional agreement with the US Department of Commerce, which required all ZTE executives who committed violations to step down from their management positions before the US Department of Commerce issued temporary licenses to ZTE and its subsidiaries and temporarily lifted export restrictions on the both. The temporary licenses were valid from March 24 to June 30.

In April 2017, ZTE signed a settlement agreement with the US government in which it "agreed to plead guilty" to charges of violating US export control laws and paid a total of up to USD 460 million in administrative penalties. ZTE agreed to fire four senior employees and expose bonus reduction or disciplinary punishment onto 35 other employees.[8]

On June 7, 2018, because ZTE had failed to fulfill its obligations in accordance with the settlement agreement, the US Department of Commerce and ZTE reached a new settlement agreement, under which the US Department of Commerce lifted the 7-year ban, but punished ZTE by a fine of USD 1 billion plus USD 400 million custody fee, to prevent ZTE from any future illegal acts; and ZTE also promised to replace its board of directors and senior management team within 30 days and allow the US Department of Commerce to send an enforcement team to ZTE.

8 See *United States v. ZTE Corporation*, 17 Cr. 0120k.

At the level of export control, the United States has adopted a combination of legislation and administration to sanction China, mainly establishing a legal system based on the Export Control Act and Export Administration Regulations, and taking administrative organs as the subject of implementation, thus bypassing the principle of due process that judicial organs must abide by when implementing "long-arm jurisdiction" and expanding the scope of application of "long-arm jurisdiction". In addition, the domestic law of the US unilaterally imposing economic sanctions on Iran is a clear violation of the Iran Nuclear Agreement adopted by the UN Security Council, which has been unanimously opposed to by the international community, and its extraterritorial legislative jurisdiction has no basis in international law.[9]

B. Severe Sanctions Combining Civil and Criminal Judicial Means: Cathy Meng's Case

On August 22, 2018, the Eastern District Court of New York issued an international arrest warrant against Huawei's CFO Cathy Meng for violating US sanctions on Iran. On December 1, 2018, Cathy Meng was temporarily detained by Canadian authorities on behalf of the US government while in transit in Canada.

On January 22, 2019, the United States formally requested Meng's extradition with Canada. Later, Canada's attorney general issued a warrant for proceeding in Meng's case. On March 3, 2019, Meng filed a civil lawsuit against relevant personnel of the Canadian Border Services Agency for "illegal search, detention, interrogation and evidence search disguised as regular border inspection prior to Meng's arrest". The case has three main defense directions in court: double criminality, abuse of process, and sufficiency of evidence.

From January 20 to 23, 2020, the focus of the case was to discuss whether the US extradition request against Meng complied with the principle of "double criminality" in the extradition law, and no verdict was reached. On May 27, 2020, the Superior Court of British Columbia, Canada announced that Meng met the standard of "double criminality". On August 17, 2020, the Superior Court of British Columbia, Canada held a trial on Meng's case and negotiated the disclosure of evidence and information related to the case. Meng's legal team appealed to the Canadian court, arguing that there was a possibility of procedural violations by local law enforcement organs and requiring Canadian

9 Xiao Yongping, Jurisprudential Analysis and Countermeasure Research of "Long-arm Jurisdiction", *China Legal Science*, No. 6, 2019, pp. 39-65.

prosecutors to release more evidence and information related to the case.

In a written opinion submitted to the court on December 18, 2020, Meng's defense lawyers argued that Canada would be violating international law if it conspired with US authorities to take punitive actions against a foreign national with no ties to the United States.

On August 9, 2021, Meng's extradition case opened, with the court hearing "judicial remedies". In court arguments on August 13, defense lawyers representing Meng said that Meng had made "no false statements" to HSBC (The Hong-kong and Shanghai Banking Corporation Limited) about relevant business. On September 25, Canada dropped extradition proceedings against Meng after she had reached a deferred prosecution agreement with the US government, and then Meng returned to China on a chartered plane operated by the Chinese government.

This case represents the United States' two-pronged severe sanctions against Huawei combining civil and criminal judicial means. In a civil action, the court may make a judgment directly as long as it complies with the jurisdiction rules of the court place; but in a criminal action, the court must first actually control the criminal suspect to exercise criminal jurisdiction. In this case, the US government requested the Canadian government and judicial authorities to restrict Cathy Meng's personal freedom for about three years, ignoring the excessive burden on Huawei and Cathy Meng for judicial jurisdiction in the US and the lengthy extradition procedure required by the US court, which violated the principle of due process. In addition, the behaviors of Huawei and Cathy Meng did not take place in the territory of the United States and did not have "a considerable degree of correlation". Besides, Meng provided a large amount of evidence approved by court cross-examination to prove that she did not intentionally cheat HSBC, which was not in line with the situation of "purposeful utilization", and exercising "long-arm jurisdiction" over her violated the principle of minimum contacts.

III. CHINA'S COUNTERMEASURES, BLOCKING AND REFERENCE RESPECTING THE UNITED STATES' IMPROPER SANCTIONS ABUSING "LONG-ARM JURISDICTION"

Faced with the United States abusing "long-arm jurisdiction" to sanction Chinese

enterprises and individuals in violation of international law and domestic law principles, it is necessary for China to build a complete domestic legal countering and blocking system. On January 9, 2021, the Ministry of Commerce of China issued the Measures for Blocking the Improper Extraterritorial Application of Foreign Laws and Measures. In combination with the Export Control Law officially implemented on December 1, 2020 and the Provisions on the Unreliable Entity List promulgated by the Ministry of Commerce in September 2020, it can be said that our system of laws and regulations in dealing with the improper extraterritorial application of foreign laws and measures has begun to make progress. Based on this, this paper will learn from the legislative experience of the United States and the European Union in countermeasures and blocking, explore the possible deficiencies, defects and ideas of amendment in the current legislative practice through the research and analysis of the provisions of the above three regulations, and call for China to issue supporting laws and regulations as soon as possible to refine the principle provisions and enhance the effectiveness levels of relevant laws and regulations through the NPC (The National People's Congress) legislation.

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

On January 9, 2021, the Ministry of Commerce promulgated the Measures for Blocking Improper Extraterritorial Application of Foreign Laws and Measures (hereinafter referred to as the "Measures for Blocking"). The introduction of the Measures for Blocking highlights China's responsibility to maintain the international economic and trade order. The core of the Measures for Blocking is to block the improper extraterritorial application that prohibits or restricts the normal economic and trade activities between Chinese enterprises and enterprises in a third country, providing a legal basis for refusing to recognize, implement and comply with relevant foreign laws and measures.

1. Scope of Application

The Measures for Blocking apply to situations where the extraterritorial application of foreign laws and measures, in violation of international law and the basic principles of international relations, improperly prohibits or restricts the citizens, legal persons or other organizations of China from engaging in normal economic and trade activities with citizens, legal persons or other organizations of a third State. Relevant factors to consider are listed for determining

"improper prohibition or restriction", including (i) whether or not international law and the basic principles of international relations are violated; (ii) possible influence on China's national sovereignty, security and development interests; (iii) possible influence on the legitimate rights and interests of citizens, legal persons or other organizations of China; (iv) other factors that should be considered.

From the legislative perspective, the factors to consider as listed under this provision are relatively broad. For example, how to interpret what kinds of possible influence on China's development interests or on the legitimate rights and interests of Chinese enterprises count as "improper"? To research this factor in a refined manner, future concrete cases or other normative documents need to be referred to for interpretation. For the time being, it is certain that violation of international law and the basic principles of international relations, detriment to China's national sovereignty, security and development interests, or infringement on the legitimate rights and interests of citizens, legal persons or other organizations of China should become a focus when the working mechanism examines "improper prohibition or restriction".

Factor Item ④ in Article II of the Measures for Blocking limits the scope of application of the Measures for Blocking to situations where economic and trade activities between Chinese subjects and subjects of third countries are improperly prohibited or restricted. Whether or not the Measures are still applicable where economic and trade activities between Chinese enterprises, or those between enterprises of China and such country are improperly prohibited or restricted, further judgment needs to be made in practice.

2. Reporting System

Where a citizen, legal person or other organization of China is prohibited or restricted by foreign laws and measures from engaging in normal economic, trade and related activities with a third State (or region) or its citizens, legal persons or other organizations, he/it shall truthfully report relevant matters to the competent department of commerce of the State Council within 30 days.

The Measures for Blocking stipulates the starting point of the 30-day reporting obligation performance deadline as the time of "encountering" relevant situations. "Encountering" refers to the time point when a Chinese enterprise knows or should know relevant situations, or is unable to ascertain when prohibited or restricted by foreign laws in the process of business operation and to be clarified and explained by competent departments. In comparison,

the Blocking Statute of the EU is worth learning from. It is prescribed in Paragraph 1, Article II thereunder that the starting day of the reporting obligation performance deadline should be the day when the reporting obligor obtains information about the economic or financial interests thereof being directly or indirectly affected by foreign laws.

Article XIII of the Measures for Blocking stipulates "reporting" as the obligation of a sanctioned enterprise. Where a citizen, legal person or other organization of China fails to truthfully report as required, he/it may be given a warning, ordered to rectify within a specified period of time, or even imposed a fine.

3. System of Prohibition Order

a. Issuance of Prohibition Order

The working mechanism assesses extraterritorial application of foreign laws and measures in accordance with Article VI of the Measures for Blocking, and if improper application circumstances are verified, it can issue a prohibition order on not admitting, enforcing or abiding by relevant foreign laws and measures so as to block influence of such laws and measures on Chinese subjects. Where foreign laws and measures within the scope of the prohibition order are complied with despite the prohibition order, the competent department of commerce of the State Council will impose administrative punishments according to law.

The working mechanism may decide to terminate or withdraw the prohibition order as the case may be.

b. Exemption from a Prohibition Order

A citizen, legal person or other organization of China may apply to the competent department of commerce of the State Council for exemption from compliance with a prohibition order. To apply for exemption from the prohibition order, a written application shall be submitted to the competent department of commerce of the State Council, in which the reasons for the application for exemption and the scope of exemption shall be included. Decisions on whether to approve the application or not shall be made within 30 days from the date of acceptance of the application; decisions shall be made in a timely manner in case of emergency.

4. Judicial Relief

Where a citizen, legal person or other organization of China encounters improper extraterritorial application which prohibits or restricts him/it from engaging in

normal economic and trade activities with a third State, he/it can seek judicial relief and safeguard his/its legitimate rights and interests according to the Measures for Blocking.

Where a person complies with the foreign laws and measures within the scope of a prohibition order, and thus infringes upon the legitimate rights and interests of a citizen, legal person or other organization of China, the latter may, in accordance with law, institute legal proceedings in a people's court, and claim for compensation by the person. For instance, an enterprise of a third State complies with a prohibition order regarding foreign laws and measures and thus breaches a contract signed with a Chinese enterprise and results in losses of the Chinese enterprise's interests, the Chinese enterprise is entitled to claim for compensation against the said enterprise of a third State.

Where a judgment or ruling made in accordance with the foreign laws within the scope of the prohibition order causes losses to a citizen, legal person or other organization of China, the latter may, in accordance with law, institute legal proceedings in a people's court, and claim for compensation by the person who benefits from the said judgment or ruling. For instance, a country imposes severe sanctions on Chinese Enterprise A for violating the country's prohibition order during A's cooperation with a third State, as a result of which Enterprise B's market share surges, then Enterprise A is entitled to file a lawsuit against B and claim for compensation by B.

Pursuant to Article 9(4) of the Measures for Blocking, where the disputing party refuses to execute an effective judgment or ruling made by the people's court, affected Chinese subjects are entitled to apply for enforcement.

5. Supporting Measures

According to Article XI of the Measures for Blocking, where Chinese subjects suffer significant losses resulting from non-compliance with the relevant foreign laws and measures in adherence to the prohibition order, relevant government departments may provide necessary support based on specific circumstances. However, whether such support is on the level of policy, industry or fund is not yet certain. Moreover, whether the extent of "necessary support" suffices to offset losses incurred by the said subjects or weaken the substantial influence of foreign sanctions remains to be known on a case-by-case basis.

6. Difficulties in the Implementation of the Measures for Blocking

a. The effectiveness level of the Measures for Blocking is low

Since the Measures for Blocking is a departmental regulation, according to Paragraph 2 of Article 80 of the Legislation Law of the People's Republic of China, the departmental regulation shall not establish norms that derogate the rights of citizens, legal persons and other organizations or increase their obligations. As a departmental regulation, the Measures for Blocking should not be used as a direct legal basis for derogating the rights of relevant subjects or increasing their obligations in the absence of superior law.

According to Article 6 of the Provisions on Quoting Laws, Regulations and Other Normative Legal Documents in Judgment Documents (Fa Shi No. 14) issued by the Supreme People's Court in 2009, the departmental rules involved in civil cases, which are found to be legal and valid after examination according to the needs of the trial of the case, can be used as the basis for reasoning in judgment. Back in 1986, the Supreme People's Court also mentioned in its Reply on How to Quote Legal Normative Documents When the People's Courts Make Legal Documents that "orders, instructions and rules issued by various Ministries and Commissions of the State Council, which are not in conflict with the Constitution, laws and administrative regulations, may be carried out by reference in handling cases, but not to be cited".

From the above provisions and replies, it can be seen that whether the rules are in conflict with the superior law is a review matter of the court. That is, the court has the right to review the effectiveness of the rules in civil proceedings. However, in terms of handling methods, if the court considers that the rules lack the basis of superior law, it should request according to law the authority with the power of decision to give a ruling, instead of identifying and judging the effectiveness of the rules in the judgment documents. However, under specific circumstances, the Measures for Blocking can help local courts clarify their positions and unify the scale of judgment.

b. Provisions of the Measures for Blocking are to be completed

The provisions of many clauses in the Measures for Blocking are relatively broad or have different room for interpretation. For example, the factors to consider of "improper prohibition or restriction" in Article VI and the specific meaning of "necessary support" in Article XI can only be confirmed by relevant departments issuing supporting normative documents or referring to relevant specific cases.

The introduction of the Measures for Blocking demonstrates the Chinese government's solemn position against the improper extraterritorial application

of foreign laws and measures, provides relief channels to protect the legitimate rights and interests of enterprises, and demonstrates China's undertaking of its responsibility to maintain the international economic and trade order. In the current international political and economic context, the Measures for Blocking represents the Chinese government's rational counterattack and favorable attempt against the United States, etc., which is of landmark significance. However, the premise of solving problems is to abide by international laws and prevailing international practices and rules. The principles of private international law and rules of international association have been formed in practice over a long period of time. In the future, the improvement and revision of the Measures for Blocking should take into account the factor of international cooperation.

B. Comparative Analysis of the Chinese and US Unreliable Entity List Systems

On September 23, 2020, the US House of Representatives deliberated and passed the Uyghur Forced Labor Prevention Act, which hyped up the so-called "forced labor" in Xinjiang. On September 18, the US banned relevant transactions with WeChat and TikTok using state force on the ground of "national security". Moreover, for over two years, the US government has continually escalated its extreme pressure on Chinese companies. Companies involved in the construction of Xinjiang and the South China Sea, as well as 114 Huawei affiliates, have been added to the US Department of Commerce's Entity List. Through these series of measures, the US government and legislative bodies banned the relevant products of these enterprises from entering the US, which severely restricted their access to US-related products, software and technologies, resulting in heavy losses in their production and business activities. The China-US trade friction started as early as March 2018, when US President Trump signed a presidential memorandum imposing tariffs on Chinese exports to the US.

On September 19, 2020, the Ministry of Commerce of China promulgated the Order No. 4 of 2020 on the Provisions on the Unreliable Entity List (hereinafter referred to as the "Provisions on the List"), which means that China had begun to safeguard the legitimate rights and interests of relevant enterprises and normal market order at the legal and regulatory level.

However, the entity list system of the United States has been established

for more than 20 years, and it is more mature than China in terms of legislation and practice. US regulations on entity lists are mainly derived from Export Administration Regulations (EAR) Chapter 744 (hereinafter referred to as the "Administration Regulations") issued by the Bureau of Industry and Security (BIS) of the US Department of Commerce. Therefore, this paper compares the provisions of "entity list" in China and the United States one by one, in order to learn from the legislative experience and improve the legal construction in this field. (See Tables 1-5)

Table 1: Legislative Purpose

Provisions on the List	Administration Regulations
Article 1 These Provisions are formulated in accordance with the Foreign Trade Law of the People's Republic of China, the National Security Law of the People's Republic of China and other relevant laws, for the purpose of safeguarding national sovereignty, security and development interests, maintaining fair and free international economic and trade order, and protecting the legitimate rights and interests of enterprises, other organizations or individuals of China.	744.1 These Regulations are formulated to restrict the entity industry from engaging in the exports, reexports, and transfers (in-country) of software and goods from the United States that may endanger the national security or foreign policy interests of the United States. Any violation of the Export Administration Regulations will be subject to criminal or administrative penalties.

Table 2: Scope of Application

Provisions on the List	Administration Regulations
Article 2 The State shall establish the Unreliable Entity List System, and adopt measures in response to the following actions taken by a foreign entity in international economic, trade and other relevant activities: (1) endangering national sovereignty, security or development interests of China;	744.2 Restrictions on certain nuclear end-uses 744.3 Restrictions on certain rocket systems and unmanned aerial vehicles 744.4 Restrictions on certain chemical and biological weapons end-uses 744.5 Restrictions on certain maritime nuclear propulsion end-uses 744.6 Restrictions on specific activities of US citizens or enterprises 744.7 Restrictions on certain exports to and for the use of certain foreign vessels or aircraft

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(2) suspending normal transactions with an enterprise, other organization, or individual of China which violates normal market transaction principles, or applying discriminatory measures against an enterprise, other organization, or individual of China which causes serious damage to the legitimate rights and interests of the enterprise, other organization, or individual of China.	744.8 Restrictions on exports and reexports to persons designated pursuant to Executive Order 13382 – Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters 744.9 Restrictions on exports, reexports, and transfers (in-country) of certain monitors, monitoring systems, or related components 744.10 Restrictions on certain entities in Russia 744.11 License requirements that apply to entities acting or at significant risk of acting contrary to the national security or foreign policy interests of the United States 744.12 Restrictions on exports and reexports to persons designated in or pursuant to Executive Order 13224 (Specially Designated Global Terrorist) (SDGT) 744.13 Restrictions on exports and reexports to persons designated pursuant to Executive Order 12947 (Specially Designated Terrorist) (SDT) 744.14 Restrictions on exports and reexports to designated Foreign Terrorist Organizations (FTOs) 744.15 Restrictions on exports, reexports and transfers (in-country) to enterprises or persons listed on "the unverified list of end-users" 744.16 Entity List 744.17 Restrictions on certain exports, reexports and transfers (in-country) of microprocessors and associated "software" and "technology" for "military end uses" and to "military end users" 744.18 Restrictions on exports, reexports, and transfers to persons designated in or pursuant to Executive Order 13315 744.19 Licensing policy regarding enterprises or individuals sanctioned pursuant to specified statutes 744.20 License requirements that apply to certain sanctioned entities 744.21 Restrictions on certain "military end uses" or "military end users" against China, Russia and Venezuela

Table 3: Inquiry Procedure

Provisions on the List	Administration Regulations
Article 4 The State shall establish a working mechanism composed of relevant central departments (hereinafter referred to as the "working mechanism") to take charge of organization and implementation of the Unreliable Entity List System. The Office of the working mechanism is located at the competent department of commerce of the State Council. Article 5 The working mechanism shall, in accordance with its duties and functions or upon suggestions and reports from the relevant parties, decide whether to investigate the actions taken by the relevant foreign entity; if it decides to investigate, an announcement shall be made. Article 6 When investigating the actions of a foreign entity, the working mechanism may inquire the relevant parties, consult or copy the relevant documents and materials, and take other necessary means. The foreign entity may state or defend its case during the investigation. The working mechanism may, based on actual circumstances, decide to suspend or terminate the investigation. If the facts on which the decision to suspend the investigation is based have substantially changed, the investigation may be resumed.	744.16 Export of items listed on the Commerce Control List ("CCL") requires a licence issued by BIS. In addition, the exports, reexports, or transfers (in-country) of specific items listed on the Entity List to entities listed on the Entity List must be licensed by the BIS. Specific requirements relating to export licences are set out in detail and inconsistently for each enterprise in Supplement No. 4.

Table 4: Situations and Procedures of Entities Listed onto or Removed from the List

Provisions on the List	Administration Regulations
Article 7 The working mechanism shall, according to the results of the investigation and by taking into overall consideration the following factors, make a decision on whether to include the relevant foreign entity in the Unreliable Entity List, and make an announcement of the decision: (1) the degree of danger to national sovereignty, security or development interests of China; (2) the degree of damage to the legitimate rights and interests of enterprises, other organizations, or individuals of China; (3) whether being in compliance with internationally accepted economic and trade rules; (4) other factors that shall be considered. Article 8 Where the facts about the actions taken by the relevant foreign entity are clear, the working mechanism may, by taking into overall consideration the factors specified in Article 7 of these Provisions, directly make a decision on whether to include the relevant foreign entity in the Unreliable Entity List; if a decision is made to include in the Unreliable Entity List, an announcement shall be made.	744.16 Entities on the "Entity List" should be enterprises reasonably believed to be involved, or to pose a significant risk of being or becoming involved, in activities contrary to the national security or foreign policy interests of the United States. Any enterprise listed on the Entity List may send a written request to the Chair of End-user Review Committee (ERC), the ERC and the Bureau of Industry and Security (BIS) requiring that its listing be removed or modified. The ERC will review such requests in accordance with the procedures set forth in Supplement No. 5. Supplement No. 5 to Chapter 744 The End-user Review Committee (ERC), composed of representatives of the Departments of Commerce, Foreign Affairs, Defense, Energy and, where appropriate, the Treasury, generally makes decisions by voting regarding additions to, removals from, or other modifications to the Entity List. The Department of Commerce acts as Chair of the ERC. Any member of the Committee is entitled to propose to add an entity onto the Entity List, or modify and remove a certain entity on the Entity List. The ERC must vote on each proposal no later than 30 days after the chairperson first circulates it to all member agencies unless the ERC unanimously agrees to postpone the vote. A decision to add an enterprise onto the Entity List needs to be passed by more than 50% of the member agencies, while a decision to remove or modify an enterprise on the Entity List needs to be unanimously passed by all member agencies.

(Continued from Previous Table)

	If a member agency is not satisfied with the outcome of the vote of the ERC, that agency may escalate the matter to the Advisory Committee on Export Policy (ACEP). A member agency that is not satisfied with the decision of the ACEP may escalate the matter to the Export Administration Review Board (EARB) for review. An agency that is not satisfied with the decision of the EARB may escalate the matter to the President for final review. When the ERC (or the ACEP or EARB or the President) makes a final decision of addition, modification, or removal, all member agencies shall publish the Entity List as amended.

Table 5: Punitive Measures

Provisions on the List	Export Control Reform Act of 2018
Article 9 In the announcement in which the relevant foreign entity is included in the Unreliable Entity List, an alert about the risks of conducting transactions with the said foreign entity may be made. In addition, the time limit for the foreign entity to rectify its actions may also be specified based on actual circumstances. Article 10 The working mechanism may, based on actual circumstances, decide to take one or several of the following measures (hereinafter referred to as the "measures") with respect to the foreign entity which is included in the Unreliable Entity List, and make an announcement of the decision: restricting or prohibiting the foreign entity from engaging in China-related import or export activities; restricting or prohibiting the foreign entity from investing in China; restricting or prohibiting the foreign entity's relevant personnel or means of transportation from	An entity contravening Sections 730-774 of the Administration Regulations is liable to imprisonment for not more than 20 years and/or a fine of not more than USD 1,000, 000 for each offence. The administrative penalty per transaction can be up to USD 300,000 or twice the value of the transaction (whichever is higher). In principle, the minimum amount of the administrative penalty will be adjusted annually according to the inflation rate (the maximum administrative penalty limit was USD 250,000 in 2018). Furthermore, no enterprise or individual may transact with an entity prohibited by the Administration Regulations.

(Continued from Previous Table)

entering into China; restricting or revoking the relevant personnel's work permit, status of stay or residence in China; imposing a fine of the corresponding amount according to the severity of the circumstances; other necessary measures. The measures provided for in the preceding paragraph shall be implemented according to law by the relevant departments in light of their respective duties and functions, and other units and individuals shall cooperate in the implementation. Article 11 Where, the time limit for the relevant foreign entity to make rectifications is specified in the announcement of the inclusion of the said foreign entity in the Unreliable Entity List, the measures provided for in Article 10 of these Provisions shall not be implemented within the time limit. Where the relevant foreign entity fails to make rectifications within the time limit, the measures shall be implemented according to Article 10 of these Provisions. Article 12 Where, under special circumstances, it is necessary indeed for an enterprise, other organization, or individual of China to conduct transactions with the foreign entity that is restricted or prohibited from engaging in China-related import or export activities, an application shall be submitted to the Office of the working mechanism, then the transactions with the foreign entity in question may be conducted upon approval. Article 13 The working mechanism may, based on actual circumstances, decide to remove the foreign entity from the Unreliable Entity List. Where the relevant foreign entity rectifies its actions within the time limit specified in the	

(Continued from Previous Table)

announcement and takes measures to eliminate the consequences of its actions, the working mechanism shall make a decision to remove it from the Unreliable Entity List. A foreign entity may apply for its removal from the Unreliable Entity List, and the working mechanism shall decide whether to remove it based on actual circumstances. The decision to remove the foreign entity from the Unreliable Entity List shall be announced. Implementation of the measures taken according to Article 10 of these Provisions shall be ceased as of the date of the promulgation of the announcement.	

As showed in Table 1, in contrast, the Provisions on the List is aimed at safeguarding national sovereignty and security and protecting the legitimate rights and interests of Chinese enterprises while taking into account the fair and free international economic and trade order, while the Administration Regulations is more inclined to protect the national security and foreign policy interests of the US.

By referring to Table 2, it can be seen that: (i) The Administration Regulations provides specific restrictions for different recipients of export products as subdivided. Supplement Document No. 4 of the Administration Regulations stipulates different export restrictions for all enterprises included in the entity list. China's counter-measures are delightful, but there is a gap between China and the US in terms of research and segmentation of the entity list. If the "Unreliable Entity List" is to be used for countermeasures, it is necessary to accelerate relevant research and classification so as to better safeguard national security, market order and the legitimate rights and interests of Chinese enterprises. (ii) The definition of "foreign entity" in the Provisions on the List may need to be further clarified. For example, whether foreign-invested enterprises and their subsidiaries established in China are "foreign entities" is still open to debate.

Table 3 shows that, under the Provisions on the List, the working mechanism must undergo an investigation procedure before deciding to place an entity on the "Unreliable Entity List". In the course of investigation, the object of investigation has the right to state, defend and put to the proof. In contrast, the

United States generally puts the 10 items which need an export license on the Commercial Control List, and publicizes enterprises included in the Entity List for each enterprise to apply and handle by itself. Therefore, in most cases, enterprises listed on the Entity List in the United States will not be notified in advance, let alone have the opportunity and channel to defend in advance, and can only raise objections afterwards, which may cause a considerable number of enterprises to suffer from unfair treatment.

From Table 4, it can be seen that: (i) While the US has detailed procedures, it has a relatively broad description of what enterprises can be added to the "Entity List". That is, the relevant entity is reasonably believed to pose a significant risk to US national security and foreign policy interests. However, in order for the entity to be removed from the List, it would require the unanimous agreement of all the representatives of the ERC, which gives the US government more discretion, but can have very serious consequences for the listed companies. On the other hand, China is not specific either about its requirement on being included in the "Unreliable Entity List". It can decide whether to include an entity in the List after taking into overall account various factors, such as China's national sovereignty, the legitimate rights and interests of Chinese enterprises, and international economic and trade rules. It remains to be seen whether the two sides will elaborate on this range in the future. (ii) In terms of relief measures, the United States provides a way for listed enterprises to submit a written report to ERC and apply for reconsideration. However, the regulation is strict that an entity can be removed from the "Entity List" only with the unanimous consent of all member agencies of ERC. Whether this relief measure can be effectively carried out needs to be further studied. On the other hand, the Provisions on the List does not mention whether the relevant foreign subjects can get relief through administrative reconsideration or administrative litigation, and it remains to be seen how it will be implemented in the future. (iii) The Administration Regulations specifies a system of regulatory organizations for the US Entity List: The ERC, composed of representatives of the Departments of Commerce, Foreign Affairs, Defense, Energy and, where appropriate, the Treasury, makes decisions regarding entities' additions, removals or modifications. However, the Provisions on the List only stipulates that relevant departments shall form a working mechanism to carry out the work. Considering that China has just started the entity list system, it is expected that further determination will be made in the future.

By referring to Table 5, it can be seen that: (i) In terms of the punishment intensity, the United States imposes very strict punishment on the entities listed in the Entity List. Not only the entities listed in the Entity List or the sanction list will be subject to heavy penalties or even imprisonment, but also any enterprises or individuals transacting with them will be punished, which will undoubtedly be a heavy blow to the production and business activities of the entities. Under the premise of such deterrence, it is hoped that ERC will be more prudent to include foreign enterprises in the Entity List or sanction list in the future. (ii) The Provisions on the List mainly restricts the rights of investment, entry and exit, and labor and residence in China, and regarding import and export trade, only stipulates in principle that no Chinese enterprise is allowed to trade with foreign enterprises listed on the "Unreliable Entity List". The specific measures under the Provisions on the List against the entities listed in the "Unreliable Entity List" are a kind of guiding measures, and it remains to be seen whether the implementation of the specific measures needs to be combined with the provisions of other relevant regulations. (iii) The time limit for rectification set out under the Provisions on the List is a system not covered under the Administration Regulations. If the listed entity rectifies its behavior within the rectification period and eliminates the consequences of the behavior, the working mechanism "shall" remove it from the list. It can be seen that the purpose of the Provisions on the List is still to maintain market order, giving enterprises listed in the "Unreliable Entity List" the opportunity to rectify, rather than blindly suppressing them.

To sum up, the starting point of China's "Unreliable Entity List" system is similar to the "Entity List" of the United States, but there are still big differences in the specific provisions, which also shows the differences in the legal traditions and acting styles of the two countries. At present, the "Unreliable Entity List" system is still in its infancy, and many procedural supporting provisions need to be further implemented, such as the investigation mechanism against relevant foreign entities, and how do listed entities initiate reconsideration and legal review. In addition, the application scope of the provisions, the main regulatory authorities, etc. are still to be further confirmed.

C. Analysis of the Export Control Law

On October 17, 2020, after three times of deliberation, the 22nd Session of the Standing Committee of the Thirteenth National People's Congress voted to

adopt the Export Control Law, which would come into force on December 1 of the same year. As China's programmatic and systematic legal norm in the field of export control, this law will lay a legal foundation for the Provisions on the Unreliable Entity List promulgated by the Ministry of Commerce, better promote and safeguard China's export control undertakings and safeguard China's national security and interests. It is an important measure to counter the US Export Control Act, Export Administration Regulations, International Emergency Economic Powers Act and other laws and regulations.

1. Legislative Purpose

The provisions of Article 48 of the Export Control Law on equivalent measures are of particular concern. According to Article 48, if any country or region abuses export control measures to endanger the national security and interests of the People's Republic of China, the People's Republic of China may, in light of the actual situation, take equivalent measures against that country or region. This clause is a head-on hit-back to the US' many malicious sanctions against Chinese companies in the US in recent years, and also provides a strong legal basis for Chinese law enforcement organs to use the Unreliable Entity List to implement equivalent countermeasures.

As a matter of fact, since the 1990s, China has formulated 6 administrative regulations on export control, including the Regulations on the Administration of Monitored Chemicals, the Regulations on Nuclear Export Control, the Regulations on the Administration of Military Exports, the Regulations on the Control of Nuclear Dual-use Items and Related Technologies Export, the Regulations on the Export Control of Missiles and Missile-related Items and Technologies, and the Regulations on the Export Control of Dual-use Biological Agents and Related Equipment and Technologies. However, due to the lack of unified basic legislation, it is difficult to make overall plans and take all factors into consideration during enforcement practices of export control.

The Export Control Law reflects in many respects China's principle of safeguarding national security and interests while fulfilling international obligations and observing international rules. It not only regulates export control, but also encourages international cooperation.

2. Application Scope

Compared with the current regulations on export control, the application scope of the Export Control Law has been greatly expanded. In Article 2, dual-use items,

military goods and nuclear weapons are included in the application scope, while safeguarding national security and interests and fulfilling international obligations such as non-proliferation are taken as the basis. Compared with the draft for comment, the addition of the word "interests" after "national security" further expands the coverage of controlled items. At the same time, the relevant provisions of the Export Control Law shall apply to the transit, transshipment, through-transportation and reexport of controlled items, export from special customs supervision areas such as bonded areas and export processing zones, and export from bonded supervision places such as export supervision warehouses and bonded logistics centers. This is very similar to Articles 1 to 21 of Chapter 744 of the Export Administration Regulations of the United States, both of which adopt a combination of generalization and enumeration in the description and feature a broad overall application scope, reflecting the principle of comprehensive control.

3. Control Measures

On the basis of the Provisions on the Unreliable Entity List, which provides that foreign entities listed on the Unreliable Entity List may be restricted or prohibited from engaging in relevant activities, the Export Control Law adds temporary control and prohibition order in Article 9 and Article 10 respectively.

The Export Control Law also follows the "penetration principle" by strictly controlling the end-users or end-uses of the controlled items, and requiring export operators to submit to the state administration of export control relevant certificates issued by the end-users or the government agencies of the countries and regions where the end-users are located. The reporting obligation of export operators has been strengthened. If importers or exporters find possible changes to end-users or end-uses, they should immediately report to the state administration of export control. In Article 17, regulatory departments are required to establish a corresponding risk management system to evaluate and verify the end-users and end-uses. However, overseas verification by law enforcement agencies still requires the support of bilateral agreements or memoranda between the country and the target country.

4. Guidance Mechanism

The Export Control Law not only stipulates many regulatory measures, but also emphasizes the importance of enterprises proactively doing compliance management. For example, Article 5 stipulates that the state administration

of export control shall timely issue export control guidelines for relevant industries, guide export operators to establish and improve internal compliance systems for export control, and may, in conjunction with relevant departments, establish an expert consultation mechanism for export control to provide consultation advice regarding export control. Export operators may also establish and participate in relevant self-regulatory organizations according to law.

This law links the establishment of the internal compliance systems with certain incentive measures. If an export operator has established an internal compliance system for export control which is in good operation condition, the state administration of export control may grant a general license and other convenient measures thereto for exporting relevant controlled items. This is bound to encourage most enterprises to voluntarily abide by the law and strengthen compliance management.

D. Analysis of the Law on Countering Foreign Sanctions

1. Legislative Purpose and Principles

Article 2 of the Law on Countering Foreign Sanctions emphasizes China's adherence to an independent foreign policy of peace and the five principles of mutual respect for sovereignty and territorial integrity, mutual non-aggression, non-interference in each other's internal affairs, equality and mutual benefit, and peaceful coexistence. The principles were first put forward in its entirety by Premier Zhou Enlai on December 31, 1953, when he received a delegation from the Indian Government, and were solemnly proclaimed by Chairman Mao Zedong to the world in 1957. At present, the principles of peaceful coexistence have gradually been accepted by most countries in the world and are included in the Charter of the United Nations to a large extent, which are highly consistent with Articles 1 and 2 of the Charter of the United Nations. Through this article, the Law on Countering Foreign Sanctions declares to the world that this law is a defensive measure to counter and retaliate against some countries' unjustified sanctions on and oppression of China, which is completely different from the unilateral and hegemonistic practices often used by some countries.

Article 3 of the Law on Countering Foreign Sanctions directly counters other countries' sanctions and shows China's attitude of opposing hegemonism and power politics. Article 3 does not directly use the term "sanctions" but

rather a clearer expression, i.e. "discriminatory restrictive" measures taken by foreign countries in violation of international law and the basic norms of international relations.

2. Application Scope

According to Articles 4 and 5 of the Law on Countering Foreign Sanctions, this law not only includes in the "List of the Countered" the individuals and organizations directly or indirectly involved in the formulation, decision, and implementation of the discriminatory restrictive measures, but also applies to (i) the spouses and direct lineal family members of the individuals "related" to the List; (ii) the senior executives or actual controllers of the organizations "related" to the List; (iii) the organizations in which the individuals "related" to the List serve as a senior executive; (iv) the organizations which the individuals or organizations "related" to the List actually control or participate in their establishment and operation. The Law on Countering Foreign Sanctions can penetrate deeper to include in the List of the Countered the actual controllers of the organizations or the organizations of individuals.

Article 4 of the Law on Countering Foreign Sanctions not only stipulates the application scope, but also gives relevant departments the right to include the above-mentioned subjects in the List of the Countered. The Provisions on the Unreliable Entity List previously promulgated by the Ministry of Commerce only stipulates that the State shall establish a "working mechanism" with the participation of relevant central departments to take charge of the implementation of the Unreliable Entity List System. However, Article 4 of the Law on Countering Foreign Sanctions directly entrusts the right to relevant departments of the State Council, which means that various departments of the State Council may be directly responsible for the List of the Countered in different fields. Although there have been cases where financial institutions disagreed on whether to implement the anti-money laundering and anti-terrorist financing financial sanctions list issued by the Ministry of Foreign Affairs, it is believed that with the improvement of the supporting laws and regulations of the Law on Countering Foreign Sanctions, the boundaries of rights and responsibilities regarding the List of the Countered will become clearer to various departments.

3. Countermeasures

Article 6 of the Law on Countering Foreign Sanctions specifically describes

one or more measures that can be taken against individuals and organizations specified in Article 4 and Article 5: (i) refusing to issue visas, banning entry into China, invalidating visas, and deportation; (ii) sealing up, seizing and freezing movable, immovable and other types of property in China; (iii) prohibiting or restricting from conducting related transactions, cooperation and other activities with domestic organizations or individuals; (iv) other necessary measures.

The above sanction measures listed in the Law on Countering Foreign Sanctions are similar to those of the Office of Foreign Assets Control of the US Department of the Treasury (OFAC); that is, they include freezing of assets, banning of transactions, travel ban, etc. It is worth noting that Article 6(3) of the Law on Countering Foreign Sanctions stipulates that the relevant departments of the State Council may prohibit or restrict domestic organizations or individuals from conducting related transactions, cooperation and other activities with listed foreign entities. It can be seen that in terms of trade prohibition, China has not granted the Law on Countering Foreign Sanctions extraterritorial application effect, and it cannot implement long-arm jurisdiction over foreign entities dealing with the said individuals and organizations.

In terms of the punishment intensity, compared with the Law on Countering Foreign Sanctions, the US Export Administration Regulations imposes more severe penalties on the listed entities. First, the entities listed on the Entity List or Sanction List will be subject to heavy fines or even imprisonment, and second, any enterprises or individuals dealing with them will also be subject to penalties. Under the US Export Control Reform Act of 2018, entities violating Sections 730-774 of the Administration Regulations are liable to imprisonment for up to 20 years and/or a fine of up to USD 1 million per offense. The administrative penalty for each transaction can be up to USD 300,000 or twice the value of the transaction (whichever is higher).

4. Consequences of Assisting in the Implementation of Discriminatory Restrictive Measures

Article 12 of the Law on Countering Foreign Sanctions stipulates that no organization or individual may implement or assist in the implementation of discriminatory restrictive measures taken by a foreign country against Chinese citizens or organizations. Where an organization or individual violates the provisions of the preceding paragraph and infringes upon the legitimate rights and interests of a Chinese citizen or organization, the Chinese citizen or organization may

file a lawsuit with a people's court according to law to demand that the infringement be stopped and compensation be made.

For example, if a third-country enterprise complies with a foreign prohibition order and breaks the contract having been signed with a Chinese enterprise, which results in the loss of the interests of the Chinese enterprise, then the Chinese enterprise has the right to file a lawsuit against the third-country enterprise for compensation.

However, can a financial institution continue to provide financial services to an entity on another country's sanction list in defiance of that country's financial sanctions? If a financial institution "assists" the OFAC sanction list and ceases to provide financial services to the relevant subject, it will be in violation of Article 12 of the Law on Countering Foreign Sanctions and shall indemnify the relevant subject for losses. Conversely, if the financial institution does not comply with the OFAC sanction list, it may be subject to heavy penalties from the US Department of Justice. Moreover, domestic financial institutions receive and pay in US dollars through inter-bank current accounts opened by US banks. If their inter-bank current accounts are closed, they will not be able to engage in any US dollar-related business (such as Bank of Kunlun), which will have a more serious impact on their operations.[1] How to survive in the cracks will become an important subject of compliance management for domestic financial institutions.

E. Conclusion and Outlook

The promulgation of the Law on Countering Foreign Sanctions and the Export Control Law and the successive release of the Provisions on the List and the Measures for Blocking demonstrate the Chinese government's solemn position in opposing improper extraterritorial application of foreign laws and measures, provide relief channels to protect the legitimate rights and interests of enterprises, and demonstrate China's undertaking of its responsibility to maintain the international economic and trade order. These laws and normative documents are the Chinese government's rational counterattack and favorable attempt against the United States in the current international political and economic background, and are of landmark significance. However, the precondition for solving the problem is to abide by international laws and common rules of international practice. The principles of private international law and rules of international exchanges have been formed in practice over a long period of time. In

the process of improving China's "anti-sanctions" system in the future, we should continue to consider the factors of international cooperation and improve the "Silk Road" of exchanges between the Chinese compatriots and the rest of the world.