

Research on the International Law of Economic Sanctions Involved in the Uyghur Forced Labor Prevention Acts of the United States

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Abstract

The sanctions target of the Uyghur Forced Labor Prevention Act (2019-2020), the Uyghur Forced Labor Prevention Act (2021-2022) and the Strengthening the Uyghur Forced Labor Prevention Act (2023-2024) is to enable China to end the alleged large-scale detention, forced labor and any other serious violations. The economic sanctions imposed by the United States on Xinjiang include unilateral economic sanctions and multilateral economic sanctions jointly with Canada and Mexico, which are comprehensive sanctions against Xinjiang, and are industrial sanctions and targeted sanctions for other countries whose related activities have no connection point with the United States. Based on the theory of universal jurisdiction expansion, the United States proposed that Xinjiang violated its obligations to the entire international community. Any country has the right to take sanctions to urge the Xinjiang government to stop its alleged illegal acts. The theories of obligations to the international community as a whole and responsibility to protect are actually a revision of the original theory of humanitarian intervention. China uses objective descriptive words to restore the truth and break the vocabulary trap of Western values. The political and economic pressure exerted by the United States on China made Xinjiang comply with the controversial international law to change its non-existent behavior, and the most vulnerable groups in Xinjiang suffered the collateral impact of economic sanctions. The economic sanctions imposed by the United States on Xinjiang have eroded the WTO principle and trade liberalization. The Provisions on the Unreliable Entity List, the Rules on Counteracting Unjustified Extra-territorial Application of Foreign Legislation and Other Measures, and the Anti-foreign Sanctions Law of China constitute China's anti-sanctions legal system. China had announced that it would implement corresponding anti-sanctions measures against institutions and individuals involved in Xinjiang issues.

Keywords: forced labor, the Uyghur Forced Labor Prevention Act, economic sanctions, trade protectionism

1. Introduction

In December 2021, the President of the United States signed the first version of the Uyghur Forced Labor Prevention Act (2019-2020)¹ passed in the Senate² and House of Representatives³, which came into effect in June 2022. The Uyghur Forced Labor Prevention Act (2021-2022), proposed by Representative James McGovern, CO chairman of the Executive Committee on China Affairs of the United States Congress, and Senator Marco Rubio, was passed by the House of Representatives in December 2021 and sent to the Senate in December 2022⁴. Compared with the 2019-2020 version, the 2021-2022 version further links the purpose of

¹ Uyghur Forced Labor Prevention Act, H.R. 6256, 116th Cong. (2019–2020)

² Uyghur Forced Labor Prevention Act, S. 3471, 116th Cong. (2019–2020)

³ Uyghur Forced Labor Prevention Act, H.R. 6210, 116th Cong. (2019–2020)

⁴ Uyghur Forced Labor Prevention Act, H.R. 1155, 117th Cong. (2021-2022)

sanctions against China with human rights issues. In November, 2023, Representative Ritchie Torres submitted the Strengthening the Uyghur Forced Labor Prevention Act (2023-2024)¹ in the House of Representatives to relevant committees to consider the provisions within their respective jurisdictions. The 2023-2024 version adds sanctions and expands the scope of application of sanctions. The target of the Uyghur Forced Labor Prevention Acts are to enable China to end the alleged large-scale detention, forced labor and any other serious violations. The first version of the Uyghur Forced Labor Prevention Act's sunset clause stipulates an 8-year implementation period. The sanctions imposed by the United States include demonstrating to domestic voters the government's sense of responsibility, leadership and determination to safeguard national interests, as well as its leadership, solidarity and determination to maintain international norms and international order. The sanctions are also a deterrent to other countries.

2. Economic Sanctions Involved

The Uyghur Forced Labor Prevention Acts involve both unilateral and multilateral economic sanctions. Unilateral economic sanctions refer to the economic sanctions imposed by a single country on other countries according to domestic laws. Multilateral economic sanctions refer to the economic sanctions jointly imposed by multiple countries on the target country. The economic sanctions' means involved in the Uyghur Forced Labor Prevention Acts is the import embargo in the trade embargo. The Uyghur Forced Labor Prevention Acts further specify the target of sanctions in the section 307² of the Tariff Act of 1930. At that time, the policy had non targeted and extensive import restrictions on goods mined, produced or manufactured under forced labor. The Tariff Act of 1930 prohibits the United States from importing any foreign goods and commodities mined, produced or manufactured by forced labor, including criminal labor, contract labor subject to criminal sanctions or child labor subject to forced labor. The United States-Mexico-Canada Agreement specified in the Uyghur Forced Labor Prevention Acts require each party to the free trade agreement to prohibit the import of goods wholly or partly produced by forced or compulsory labor from other sources into its territory³. Through the economic sanctions with extraterritorial jurisdiction effect, the United States forces other countries to join the sanctions camp, so as to achieve a kind of de facto multilateral sanctions, effectively prevents the target countries from seeking to replace the United States' partners in international trade activities, so as to strengthen the effect of the United States' sanctions. At the same time, such secondary sanctions against other parties can also exclude the enterprises of other countries from the market of the target countries and avoid other countries from seizing the market in the target countries lost by the United States under the primary sanctions⁴. The U.S. Customs and Border Protection presumes that all products produced in Xinjiang are forced labor products according to the Uyghur Forced Labor Prevention Acts, and prohibits any products related to Xinjiang from entering the country, unless clear and convincing evidences are provided to prove otherwise. For the United States and other countries whose related activities are connected with the United States, the economic sanctions imposed by the United States on Xinjiang are comprehensive sanctions, that is, trade embargoes imposed on specific countries or regions. For other countries whose related activities have no connection point with the United States, the economic sanctions imposed by the United States on Xinjiang are industrial sanctions and targeted sanctions. Industry sanctions refer to the economic sanctions imposed on specific industries in specific countries or regions, generally for their pillar industries. Targeted sanctions refer to the inclusion of specific individuals or entities that harm national interests in the sanctions lists.

3. Illegality

The universality principle is aimed at the illegal acts recognized in the international law, and it gives any country the jurisdiction over such acts⁵. The principle of universal jurisdiction is controversial in the current international law, and many countries have specific restrictions on its application. After entering the 21st century, in order to clean up the stigma of the humanitarian intervention theory and to provide new theoretical weapons for western countries' foreign intervention, the theories of obligations erga omnes and responsibility to protect came into being⁶. Whether the theories of Obligations erga omnes and responsibility to protect constitute the customary international law is still controversial⁷. Even if the theories give the international community the right to

¹ Strengthening the Uyghur Forced Labor Prevention Act, H.R. 4567, 118th Cong. (2023-2024)

² 19 U.S.C. § 1307

³ United States-Mexico-Canada Agreement Art. 23.6, Jul. 1, 2020, available at <https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement>.

⁴ Justin D. Stalls, (2003). Economic Sanctions, *U. Miami Int'l & Comp. L. Rev.*, 11, p. 144.

⁵ Curtis A. Bradley, (2001). Universal Jurisdiction and U.S. Law, *U. Chi. Legal F.*, p. 323.

⁶ Mehrdad Payandeh, (2010). With Great Power Comes Great Responsibility? The Concept of the Responsibility to Protect within the Process of International Lawmaking, *Yale J. Int'l L.*, 35, p. 469.

⁷ Mehrdad Payandeh, (2010). With Great Power Comes Great Responsibility? The Concept of the Responsibility to Protect within the Process of International Lawmaking, *Yale J. Int'l L.*, 35, p. 483.

intervene in certain special international crimes, this right should also be exercised collectively by the entire international community. Specifically, under the current system of the international law, it can only be exercised by the Security Council. The Uyghur Forced Labor Prevention Acts generally state that the investigation evidences come from the testimony of alleged victims, satellite images, official media reports, public documents, official statements and documents, and reports of researchers and civil society groups. The authors are all Americans and Westerns. In March 2020, the official report of the Congressional-Executive Commission on China¹ accused China of violating Article 7(1) of the Rome Statute of the International Criminal Court². The United States seeks cooperation and recognition from international organizations. According to the Strategy to Prevent the Importation of Goods Mined, Produced, or Manufactured with Forced Labor in the People's Republic of China³ submitted by the Forced Labor Enforcement Task Force to the Congress accused the productions in Xinjiang of at least six situations described by the International Labor Organization, namely, abuse of vulnerability, restriction of movement, isolation, intimidation and threats, abusive working and living conditions and excessive overtime⁴. Michelle Bachelet's OHCHR Assessment of human rights concerns in the Xinjiang Uyghur Autonomous Region, People's Republic of China⁵ contains satellite images and other evidences, concluded that China's anti-terrorism, education and training of vocational skills, alleged forced labor, forced sterilization and other policies in Xinjiang violate the international human rights legal system. The personal behavior of the High Commissioner⁶ Michelle Bachelet was not authorized by the Human Rights Council and did not conform to the Code of Conduct for the experts⁷. In October 2022, the 51st session of the United Nations International Human Rights Council voted on the Draft Decision L.6, entitled Debate on the situation of human rights in the Xinjiang Uyghur Autonomous Region, China⁸, which has been tabled by a Core Group comprising the United States, the United Kingdom, Canada, Norway, Sweden, Finland, Iceland, Denmark, Australia, and Lithuania, with 17 states vote in favor, 19 against, and 11 abstentions⁹. Almost all members of the Human Rights Council belonging to the Organization of Islamic Cooperation¹⁰ voted against the existence of human rights violations in Xinjiang¹¹. The Chinese government, especially the Ministry of Foreign Affairs has responded on various platforms and the chamber of commerce has responded at the hearing of the Uyghur Forced Labor Prevention Acts¹² that forced labor does not exist in Xinjiang.

4. Landing Measures

In July 2020, the Office of Foreign Assets Control of the U.S. Department of the Treasury announced a list of sanctions against the Xinjiang Production and Construction Corps and several officials of the Xinjiang Autonomous Region. In November 2020, the U.S. Customs and Border Protection announced the issuance of a Withhold and Release Order on cotton and cotton products¹³ originating from the Xinjiang Production and Construction Corps. In January 2021, the U.S. Customs and Border Protection issued a Withhold and Release Order to detain cotton and tomato products and their downstream products¹⁴ including apparel, textiles, tomato seeds, canned tomatoes, tomato sauce and other products made with cotton and tomatoes in Xinjiang at all ports

¹ Congressional-Executive Commission on China, Annual Report 2020, 116th Congress, Second Session, December 2020.

² Article 7(1) of the Rome Statute of the International Criminal Court provides a list of 11 acts, any one of which may constitute crimes against humanity "when committed as part of a wide spread or systematic attack directed against any civilian population, with knowledge of the attack."

³ Strategy to Prevent the Importation of Goods Mined, Produced, or Manufactured with Forced Labor in the People's Republic of China.

⁴ ILO Indicators of Forced Labor, available at <https://www.cbp.gov/node/373333/printable/print>.

⁵ OHCHR Assessment of human rights concerns in the Xinjiang Uyghur Autonomous Region, People's Republic of China.

⁶ The role of the High Commissioner for Human Rights, available at <https://www.ohchr.org/en/about-us/high-commissioner>.

⁷ Code of conduct of the Special Procedures mandate-holders of the Human Rights Council, Human Rights Council resolution 5/2: the communication should not be manifestly unfounded or politically motivated; the communication should contain a factual description of the alleged violations of human rights; the language in the communication should not be abusive; the communication should be submitted on the basis of credible and detailed information; the communication should not be exclusively based on reports disseminated by mass media.

⁸ Debate on the Situation of Human Rights in the Xinjiang Uyghur Autonomous Region, China, A/HRC/51/L.6.

⁹ Voting Results, A/HRC/51/L.6

¹⁰ Organisation of Islamic Cooperation, available at <https://www.oic-oci.org/states/?lan=en>.

¹¹ State response to the OHCHR Assessment of human rights concerns in the Xinjiang Uyghur Autonomous Region, People's Republic of China, available at https://www.ohchr.org/sites/default/files/documents/countries/2022-08-31/ANNEX_A.pdf.

¹² Department of Homeland Security, Comment Submitted by National Foreign Trade Council, available at <https://www.regulations.gov/comment/DHS-2022-0001-0174>.

¹³ CBP Issues Detention Order on Cotton Products Made by Xinjiang Production and Construction Corps Using Prison Labor, available at https://www.cbp.gov/newsroom/national-media-release/cbp-issues-detention-order-cotton-products-made-xinjiang-production?_ga=2.32432126.1350062249.1618405302-866077409.1590169137.

¹⁴ CBP Issues Region-Wide Withhold Release Order on Products Made by Slave Labor in Xinjiang, available at <https://www.cbp.gov/newsroom/national-media-release/cbp-issues-region-wide-withhold-release-order-products-made-slave>.

in the United States from Xinjiang, China. In May 2021, the U.S. Customs and Border Protection disclosed that Los Angeles Customs seized a batch of UNIQLO cotton shirts in January 2021. Although UNIQLO argued that this batch of products had nothing to do with Xinjiang, the U.S. Customs and Border Protection believed that UNIQLO failed to provide sufficient evidences to prove. Based on the Withhold and Release Orders, Los Angeles Customs detained this batch of goods¹. According to the explanation of the U.S. Customs and Border Protection on how to prove that the detained goods are not forced labor products, the importers need to provide supporting evidences that can prove the complete supply chain of goods from cotton picking to the production and processing of downstream products such as spinning, weaving, printing and dyeing, and then to the goods imported into the United States, including the list of suppliers, listing the name, address, flow chart of production process and map of the region where the production process is located, corresponding to each step in the production process, the testimony issued by each processing plant, purchase orders, invoices and payment certificates of raw materials for each processing link, all production records and labor records of each processing link to determine all production steps from cotton to finished products. Finally, UNIQLO's defense against the Withhold and Release Orders was rejected by the U.S. Customs and Border Protection because it could not provide these evidences completely. In June 2021, the U.S. Customs and Border Protection issued a Withhold and Release Order against the silica-based products produced by Hoshine Silicon Industry Co. Ltd. and Subsidiaries, as well as the materials and final goods derived from or produced by these products, prohibiting the import into the United States on the grounds that the company used the silica-based products produced by forced labor. In June 2022, the U.S. Customs and Border Protection issued the Operational Guidance for Importers² to implement the rebuttable presumption of the Uyghur Forced Labor Prevention Acts. In response to the U.S. Customs and Border Protection investigation, the burden of proof for importers is very huge. The Guidance stipulates the reporting obligation of the U.S. Customs and Border Protection to the Congress. Under the political supervision of the Congress, even if the importers have provided sufficient evidences, the U.S. Customs and Border Protection may not be inclined to accept the evidences of the importers, and then recognize that there is no forced labor. In September 2023, the U.S. Department of State, the U.S. Department of the Treasury, the U.S. Department of Commerce, the U.S. Department of Homeland Security, the U.S. Department of Labor and the Office of the U.S. Trade Representative issued an Addendum³ to the 2021 Updated Xinjiang Supply Chain Business Advisory⁴ to call attention to the China's ongoing genocide and crimes against humanity in Xinjiang and the evidences of widespread use of forced labor there.

5. Principle of Proportionality

According to the index system for evaluating the effectiveness of economic sanctions established by the HSE economic sanctions database⁵ which is recognized as the authority in the field, the evaluation results of the policy outcomes are 1 to 4, respectively corresponding to the failure results, uncertain results, positive results and fruitful results, the evaluation results of the sanctions' contributions are 1 to 4, respectively corresponding to negative contribution, no contribution, significant contribution and decisive contribution. The two factors are multiplied by each other, and 9 is the dividing line of success and failure. There is no alleged large-scale detention, forced labor or any other serious violations in China, making it impossible for United States to achieve the target of the economic sanctions. The market size of the United States makes restricting market access a powerful tool in its diplomatic strategy. Among the priority law enforcement industries of the United States, the proportion of Xinjiang's production areas in the global market has been diluted, the supply chain of Xinjiang has been transferred. The sanctions have made a significant contribution to the suppression of Xinjiang's industrial competitive advantage. The sanctions is impossible to achieve 9 points because the actions of sanctions are separated from the target. Before resorting to sanctions, the United States should try to solve the problem through consultation with the other side in good faith⁶. The United States imposed import restrictions on all goods from Xinjiang without serious and comprehensive negotiations with China and other WTO members before imposing economic sanctions on Xinjiang. According to the interpretation of the necessity of the Maritime Gambling Case, the United States must prove why it must implement the current measures of

¹ Customs Ruling HQ H318182, available at https://www.customsmobile.com/rulings/docview?doc_id=HQ%20H318182&highlight=uniqlo.

² Operational Guidance for Importers, Uyghur Forced Labor Prevention Act, U.S. Customs and Border Protection, June 13, 2022, available at https://www.cbp.gov/sites/default/files/assets/documents/2022-Jun/CBP_Guidance_for_Importers_for_UFLPA_13_June_2022.pdf.

³ Addendum to the Xinjiang Supply Chain Business Advisory, available at <https://www.state.gov/xinjiang-supply-chain-business-advisory/>

⁴ Xinjiang Supply Chain Business Advisory, available at <https://www.state.gov/wp-content/uploads/2021/07/Xinjiang-Business-Advisory-13July2021-1.pdf>.

⁵ Gary Clyde Hufbauer, Jeffrey J. Schott, Kimberly Ann Elliott, Barbara Oegg, (2007). *Economic Sanctions Reconsidered*, Washington: Peterson Institute for International Economics.

⁶ Panel Report, United States-Import Prohibition of Certain Shrimp and Shrimp Products Recourse to Article 21.5 DSU by Malaysia, WT/DS58/RW, at para 5.67 (adopted June 15, 2001)

economic sanctions instead of adopting other alternative measures in line with the WTO rules¹. Despite the opposition of the United States, the right to development has been recognized by the vast majority of the countries in the world, which has the nature of the customary international law and is even considered to constitute *jus cogens*². Economic sanctions should change the policies of the sanctioned states in a relatively moderate and limited way, with moderation referring to the values and standards of the sanctioned states, which is often of great importance to individual parties in the sanctions³. The economic sanctions imposed by the United States on Xinjiang undoubtedly violate the right to development, and the results violate the fundamental principles of the modern international human rights law. On the one hand, the economic sanctions are intended to punish the sanctioned states for violating the international human rights law. On the other hand, economic sanctions have led to the destruction of human rights. Hence, the Economic sanctions are inherently contradictory. The emergence of this contradiction also reflects the fundamental differences in the international community's understanding of the international human rights law. Developed countries pay more attention to civil and political rights. Developing countries place greater emphasis on economic, social and cultural rights. Developed countries, especially the United States, often implement various economic sanctions under the guise of safeguarding civil and political rights, with little attention paid to the damage of the sanctions to the economic, social and cultural rights of the people in the sanctioned countries. The latest version of the Uyghur Forced Labor Prevention Act expands the scope of supervision to regions or ethnic groups other than Xinjiang, which will incur a lot of law enforcement costs and seriously affect the customs clearance efficiency of imported goods. The economic sanctions imposed by the United States on Xinjiang do not meet the relevance, necessity and proportionality required by the principle of proportionality. The relevance requires that the means adopted should conform to the purpose of legislation. The necessity requires that the means adopted should produce the minimum infringement as far as possible. The proportionality requires that the means and purposes adopted should be symmetrical and not excessive⁴.

6. Trade Protectionism

The implementation of restrictive or prohibitive measures by the United States that are inconsistent with the WTO agreement violates the most fundamental principle of national treatment of the WTO, which requires the contracting parties to mutually guarantee that the natural persons and legal persons of the other party enjoy the same treatment as their natural persons and legal persons in their own territory. Similar to the Tuna Dolphin Case, the United States' approach violates the GATT that the same product should not be treated differently based on the mode of production⁵. The United States hopes to add a Social Clause as an exception clause in GATT and other agreements to make trade restrictions and economic sanctions imposed on grounds of violating human rights and labor rights comply with WTO obligations. Developing countries worry that linking trade restrictions and labor rights will provide a legal mask for trade protectionism. With the support of developing countries, the Ministerial Conference of WTO in 1996 and the Ministerial Conference of WTO in 2001 declared that the International Labour Organization is responsible for the formulation and implementation of labor rights protection standards, and that WTO will not include this issue in relevant agreements⁶. The guiding ideology of the United States-Mexico-Canada Agreement written in the Uyghur Forced Labor Prevention Acts is different from that of the WTO. WTO supports and seeks the integration of functionalism, and pursues the collective interests and integration beyond the interests of specific members. The United States-Mexico-Canada Agreement, on the other hand, belongs to the integration of free governments. It does not agree with the collective interests that go beyond the interests of specific parties, and believes that integration is only a tool for parties to maximize their own interests. In terms of content, the United States-Mexico-Canada Agreement abolished the development content that paid attention to the interests of developing countries and paid more attention to the industrial chains in North America, which was the product of trade protectionism. Trade protectionism not only harms the interests of China and other members of the WTO, but also undermines the authority of the WTO and its dispute settlement mechanism, putting the multilateral trading system and the international trade order at risk.

7. Anti-Sanctions

¹ Appellate Body Report, (2003). United States-Measures Affecting the Cross-Border Supply of Gambling and Betting Services, WT/DS285/AB/R (adopted Apr.7, 2005), 306-11.

² Benjamin Manchak, (2010). Comprehensive Economic Sanctions, The Right to Development and Constitutionally Impermissible Violations of International Law, *B. C. Third World L. J.*, 30, p. 417.

³ Gary Clyde Hufbauer, Jeffrey J. Schott, Kimberly Ann Elliott, Barbara Oegg, (2007). *Economic Sanctions Reconsidered*, Washington: Peterson Institute for International Economics.

⁴ L.Hirschberg, (1981). *Der Grundsatz der Verhältnismäßigkeit*, Schwartz, S.6ff.

⁵ First Submission of the United States to the Panel, United States-Restrictions on the Imports of Tuna, GATT B.I.S.D. (29thSupp.) at 155 (1993) (unadopted); Report of the Panel, United States-Restrictions on the Imports of Tuna, DS29/R (June 16, 1994) (unadopted).

⁶ World Trade Organization, Singapore minimal declaration of 18 December 1996, wt/min (96)/dec, at 2 (adopted December 13 1996); World Trade Organization, minimal declaration of 14 November 2001, wt/min (01)/dec/1, 41 i.l.m.746 (2002), art.8 at 2 (2002).

China suppresses protectionism in international trade in an institutional way, prevents other countries from expanding extraterritorial jurisdiction and improper extraterritorial application of domestic laws, and provides relief paths for Chinese enterprises and individuals. China's anti-sanctions legal system includes the Provisions on the Unreliable Entity List¹, which came into effect in September 2020, the Rules on Counteracting Unjustified Extra-territorial Application of Foreign Legislation and Other Measures², which came into effect in January 2021, and the Anti-foreign Sanctions Law of China³, which was passed in June 2021. The first two belong to the department regulations, and the legal rank is low. The latest law is a principled provision that needs to be further implemented. For China's exporters, they should pay special attention to carefully assess whether their actions have the risk of violating the relevant laws of China's anti-sanctions, and should choose to give priority to complying with the relevant legal requirements of China's anti-sanctions when facing the conflict between the laws of China and the United States, so as to safeguard national security and development interests. In the process of supply chain traceability, when external customers or official U.S. agencies such as the U.S. Customs and Border Protection require information that may involve national secrets, or there are discriminatory restrictive measures such as interfering in China's internal affairs and cracking down on Chinese citizens and organizations, Chinese enterprises should respond in strict accordance with the requirements of relevant Chinese laws. The target subjects of China's anti-sanctions measures are somewhat limited compared with the supporting legislation, including sanctions against the Congressional-Executive Commission on China, prohibiting relevant officials from entering China, freezing the property in China of relevant officials, and prohibiting Chinese citizens and institutions from trading with relevant officials. China has implemented precise sanctions, targeting those who implement or support policies or conducts condemned by the international community⁴. Unlike the United States, China respects the relevance, necessity and proportionality of the requirements in the international law and actively strives to create conditions to ensure that the people of Xinjiang can enjoy economic, social and cultural rights.

8. Conclusion

In the modern sense, forced labor linked to international trade originated from the section 307 of the Tariff Act of 1930. After the WTO Social Clause debate, the specific provisions are found in the U.S. regional trade agreement. The maturity of American legal system provides the basis, experience and tools for its pursuit and implementation of the improper extraterritorial effect of domestic law. The United States has adopted a radical attitude and policy choice towards China-U.S. trade imbalance and domestic governance deficit, does not rely on bilateral negotiations and multilateral institutions such as WTO, adheres to economic sanctions against Xinjiang, and challenges the principle of non-interference in internal affairs of the traditional international law. The United States restricts the import of Xinjiang products on the grounds that the production methods violate labor rights and human rights, providing a tool for trade protectionism to combat trade competitors. The economic sanctions imposed by the United States have to a great extent restricted the free flow of international trade and violated WTO obligations. Facing the different economic sanctions policies of China and the United States, traders involved in Xinjiang must obtain both China's export license and the United States' import license. Excessive regulations increase the compliance cost of the regulatory objects, and also cause the regulatory objects to face conflicting legal rules.

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¹ MOFCOM Order No. 4 of 2020 on Provisions on the Unreliable Entity List, available at <http://english.mofcom.gov.cn/article/policyrelease/announcement/202009/20200903002580.shtml>.

² MOFCOM Order No. 1 of 2021 on Rules on Counteracting Unjustified Extra-territorial Application of Foreign Legislation and Other Measures, available at <http://english.mofcom.gov.cn/article/policyrelease/announcement/202101/20210103029708.shtml>.

³ Anti-foreign Sanctions Law of China, available at http://www.npc.gov.cn/npc/c2/c30834/202106/t20210610_311892.html.

⁴ Arne Tostensen & Beate Bull. (2002). Are Smart Sanctions Feasible? *World Politics*, 54(3), p. 373.

to Protect within the Process of International Lawmaking. *Yale J. Int'l L.*, 35.

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