



# **Economic Coercion or Economic Sanction? China's Attitude Toward Economic Sanctions**

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There are growing concerns about China's economic coercions; yet, within China, the perception is that Western economic sanctions constitute the actual economic coercion, and debate has continued over whether China should develop its own system of economic sanctions as a countermeasure. In recent years, China has indeed been advancing such tools, including the establishment of an 'Unreliable Entity List' and the enactment of the Export Control Law and its related regulations. This study examines the development and implementation of China's economic sanctions framework to illuminate its approach to economic sanctions and to identify necessary policy responses for Japan.

## **1. Introduction**

A defining feature of Chinese diplomacy under the Xi Jinping administration is its departure from Deng Xiaoping's policy of "hiding one's strengths and biding one's time (韜光養晦)," transitioning instead toward actively asserting its sovereignty and interests as a major global power. Although wolf warrior diplomacy, characterized by Chinese diplomats extolling the superiority of China's measures against COVID-19, appears to be waning, China's assertiveness in promoting its interests within the international community is unlikely to change. At a July 2022 seminar studying Xi Jinping's diplomatic philosophy, the emphasis on 'struggle' in Xi's approach to diplomacy was reaffirmed and emphasized.<sup>1</sup>

The international community became aware of China's increasing assertiveness around 2010, marked by a growing number of Chinese actions that could be characterized as "economic coercions." China's actions have increasingly taken the form of giving pressure on those countries that do not act in accordance with its interests by tightening customs clearance for goods by from those countries and suspending economic projects, in order to compel them to accede to its own position. For instance, in September 2010, following an incident of a Chinese fishing vessel colliding with a Japanese patrol ship near the Senkaku Islands, Japan detained the Chinese captain of the fishing boat. In response, China tightened export control of rare earth minerals to Japan. In October of the same year, the Nobel Peace Prize was awarded to a Chinese activist Liu Xiaobo, and China imposed de-fact ban of the import of Norwegian salmon, saying it had quarantine concerns. China has continued to increasingly employ economic measures to



influence the policies of other countries, prompting growing concern within the international community regarding its economic coercion. Notably, the G7 Leaders' Communiqué in May 2023 became the first to explicitly address China's economic coercion, calling for enhanced resilience to economic coercion among G7 member nations. In October 2023, the EU Council adopted the Anti-Coercive Instrument, introducing legal tools to address economic coercion targeting EU member states. It was reported that this regulation was largely motivated by the need to counteract economic pressure from China.<sup>2</sup>

Then, how does China perceive what we call China's economic coercion? It is unlikely that China regards its own actions as economic coercions.<sup>3</sup> However, it is possible that when other countries do what China deems harm China's interests, China may think it has the right to take some countermeasures and choose to take such measures as restricting trade with those countries as its economic sanctions. Understanding how China perceives and intends to use economic sanctions is a critical issue of economic security for Japan<sup>4</sup>, which relies on both the US and China as major trading partners, particularly in the context of ongoing export controls and trade restrictions between the US and China.

This study begins by examining the debates within China surrounding economic coercion and economic sanctions. Since 2019, China has been actively advancing legislation to facilitate the imposition of economic restrictions on foreign entities, introducing the Unreliable Entity List as well as promulgating the Export Control Law and the Anti-Foreign Sanctions Law. These systems can be regarded as China's mechanisms for implementing economic sanctions. Examining cases where China used these systems would enable us to understand how China sees economic sanctions and utilizes them. This paper will also explore China's approach to economic sanctions and provide some suggestions for how Japan should respond.

## **2. Debates on Economic Sanctions in China**

To begin, it is necessary to briefly define the concepts of economic coercion and economic sanctions addressed in this paper. Given the numerous debates surrounding the definition of sanctions, a comprehensive examination is beyond the ability of the author and will, therefore, not be explored in detail.<sup>56</sup> In this context, 'economic coercion' refers to a country's use of economic restrictions or threats thereof against another country, foreign individuals or foreign groups to force them to respect and recognize its interests or claims. Meanwhile, 'economic sanctions' are defined as measures of economic restriction imposed by a country to punish another country or individual/group for infringing on its national interests or to pressure them into taking desired actions when such infringements occur. Economic coercion and economic sanctions share some similarities; however, the focus of economic coercion is on exerting



pressure and may include actions that stop short of implementing actual restrictive measures, such as suggesting restrictive measures that include initiating investigative procedures to serve as a prerequisite for sanctions or implicitly encouraging boycotts of certain products. On the other hand, while economic sanctions may involve applying the same restrictive measures as economic coercion, they differ in that they also serve as countermeasures in response to the actions of other countries.

Economic sanctions can be categorized into two types: those imposed by a single country unilaterally and those enforced by a multilateral framework, such as the “measures not involving the use of armed force” authorized by the UN Security Council under Chapter 7 of the UN Charter. This discussion will focus solely on unilateral sanctions imposed by a single country. Furthermore, restrictive measures targeting human exchanges, such as stricter visa issuance or the cancellation of exchange programs, are not considered in this context as economic sanctions due to their broad application.

#### (1) Discussions on the Relationship Between Economic Coercion and Economic Sanctions

In China, the terms ‘economic compulsion (经济强制)’ or ‘economic intimidation (经济胁迫)’ are used to translate ‘economic coercion’. Some argue that there is a distinction between the two, noting that ‘economic sanctions’ is a neutral term, while ‘economic intimidation’ carries a negative connotation, often used by Western media in their criticism of China.<sup>7</sup> Although research on economic coercion within China is limited, many existing researches treat it as nearly synonymous with economic sanctions, with a particular focus on the economic coercion exerted by the West.<sup>8</sup>

Li *et al* (2023) define economic coercion as “the use of economic threats by one state or a group of states to compel another state or group of states to alter its policies, practices, or government, with the aim of achieving the former’s foreign strategic objectives by increasing or threatening to increase the economic costs for the latter.” In the paper, the boundary between economic coercion and economic sanctions remains unclear. It suggests that if economic sanctions are broadly defined as “negative economic actions taken by one country against another,” then economic coercion can be considered a form of economic sanctions. However, it also claims that, if economic sanctions are narrowly interpreted as “a response by one country to international illegal acts,” then sanctions, along with measures like export controls and investment restrictions, become one means of economic coercion. As such, the paper makes no attempt to clearly delineate these two concepts.

Yang (2024) argues that economic coercion and economic sanctions share many similarities in terms of content and scope, making it difficult to draw a strict distinction between the two. Yang



notes that while discussions of economic coercion have been taking place since the immediate post-WWII period, the term's meaning has evolved in recent years, with Western countries using it in the context of criticizing China. In Yang's paper economic sanctions are defined as "coercive economic measures carried out by one or a group of countries to change the policies of another country or to express a stance on its policies," and points out that while economic coercion emphasizes political or diplomatic goals achieved through economic measures, economic sanctions are used not only to achieve political objectives but also for purposes such as trade wars or punishing other countries. Despite these differences, the paper argues that the two concepts cannot be clearly distinguished.

## (2) The Positioning of China's Measures

In China, the term 'economic coercion' is deemed as the concept used in the context of criticism of China by Western countries. However, is there a possibility that China might see its restrictive measures (often described as 'economic coercion') as 'economic sanctions?' Considering China's history of being subject to restrictions by COCOM (Coordinating Committee for Multilateral Export Controls) during the Cold War, and its general opposition to unilateral sanctions imposed by individual countries—except those mandated by United Nations Security Council resolutions<sup>9</sup>—it is unlikely that China would categorize its own restrictive measures as 'economic sanctions.'<sup>10</sup>

Conversely, some discussions within China openly acknowledge that the country has imposed economic sanctions. Bai (2016) cites prior research suggesting that while the Chinese government has never acknowledged it imposed economic sanctions against any country, organization, or individual, it has undertaken actions analogous to economic sanctions without formally declaring them. Bai identifies the following six cases as examples of sanctions imposed by China. However, it does not provide particular reason indicated to restrict the examples of economic sanctions to these six.

- In 1978, in retaliation for anti-Chinese rhetoric in Albania, China suspended aid to Albania.
- In 1978, China suspended aid to Vietnam to induce its withdrawal from Cambodia.
- In 1992, China stopped a large-scale economic project with France and suspended imports of French wheat with the aim of halting French arms sales to Taiwan.
- In 2008-2009, China cancelled a contract with Airbus due to the Dalai Lama's visit to France.
- In 2010, China imposed sanctions on US companies involved in the sale of weapons to Taiwan.
- In 2010, China suspended exports of rare earth metals to Japan and the US in response to



the Senkaku Islands fishing boat collision incident.

Fang (2020) defines economic sanctions as “actions taken by a country’s government to impose restrictive measures on normal economic exchanges with other countries to achieve foreign policy objectives.” Fang identifies 17 instances of economic sanctions imposed by China since 1946, noting that 12 of these occurred after 2010, indicating an increase of the use of economic sanctions by China starting from around 2010. The 12 examples cited to be economic sanctions are almost identical to those regarded as China’s economic coercion<sup>11</sup>, thus the paper treats what we call China’s economic coercion as economic sanctions. Additionally, the paper assesses China’s economic coercion as a ‘limited counterattack,’ describing them as defensive measures implemented solely in response to violations of China’s sovereignty, national security, or development interests, with actions that are targeted and restrictive in nature.

Xie *et al* (2022) essentially acknowledges that China has engaged in economic coercion (economic compulsion), stating that acts of economic coercion are common means taken by states, that they do not violate rules or contravene laws, and that all major countries have done so over the past 20 years. And the paper further uses the measures taken by China against Australia from around 2020 as a specific example to argue that what is considered to be China’s economic coercion is defensive in nature, and that what should be characterized as a form of ‘corrective economic coercion’ utilizes economic and trade measures to fight back against anti-Chinese speech and actions and the damage they cause, and differs from the ‘punitive economic coercion’ used by the United States.<sup>12</sup>

### **3. Development of Economic Sanctions Systems in China**

Many of the discussions in China referenced in section 2 above indicate the possibility that China will get exposed to more economic sanctions in the future. They recommend that the Chinese government raise awareness of the international community about the fact that the economic coercion is employed by the United States, strengthen its own capacity to impose economic sanctions, and improve its domestic legal and regulatory frameworks related to economic sanctions. For example, Fang (2020) argues that China should enhance the effectiveness of its economic sanctions by imposing export controls on high-tech products that are irreplaceable by other countries. Fang also emphasizes the importance of clarifying China’s commitment to safeguard national security and interests by establishing a formal sanctions framework through domestic legislation.

In fact, China has been steadily advancing legislation to implement economic sanctions since around 2019. This is likely enforced by a collective study session held by the Central Political Bureau of the Communist Party of China in November 2019, where General Secretary Xi Jinping



emphasized the importance of developing a legal framework (foreign affairs legislation) for issues related to foreign countries. He noted that there is a need to better protect China's national interests while promoting the creation of a Community with a Shared Future for Mankind through the strengthening of foreign affairs legislation.<sup>13</sup> The legal framework that China has developed clearly states that it can take 'retaliatory' or 'corresponding measures' against acts that infringe on its sovereignty or interests, and can impose economic sanctions on foreign individuals or organizations. The following is a summary of China's recent development of the legal framework, focusing on the Unreliable Entity List system established in 2019, the Export Control Law enacted in 2020, and the Anti-Foreign Sanctions Law enacted in 2021.<sup>14</sup>

#### (1) Unreliable Entity List

In May 2019, the Ministry of Commerce of China (MOFCOM) announced that the Unreliable Entity List would be established.<sup>15</sup> In September 2020, the Provisions on the Unreliable Entity List were enacted as a subordinate regulatory framework to related laws including the Foreign Trade Law and the National Security Law. These provisions stipulate that if a foreign entity (foreign companies, organizations, or individuals) 1) threatens China's national sovereignty or security, or 2) violates generally-accepted market rules by suspending transactions with Chinese companies or imposing discriminatory measures that infringe upon the interests of Chinese companies, the Chinese government will investigate the entity and determine whether to include it on the list (Articles 5–8). Entities included in the list will face sanctions such as trade restrictions, investment bans, entry bans, or fines in relation to their activities in China (Article 10).

As of mid-January 2025, the List includes two US companies added in February 2023, three US companies added in two separate instances in May 2024, and eleven US companies added in two separate instances in January 2025, all of which were listed for their involvement in arms sales to Taiwan (see table below). Additionally, although not yet included on the list, in September 2024, MOFCOM announced that it would investigate US apparel company PHV for its discriminatory statements and actions regarding the usage of Xinjiang cotton.<sup>16</sup> The Ministry has requested that PHV provide documentation explaining whether it has taken discriminatory measures against Xinjiang products in the past three years.

So far, all the companies listed are US defense industry companies, and it is unlikely that these companies engage in transactions with China, nor is it expected that their executives travel to China for business. Therefore, the trade and entry/exit bans do not constitute sanctions with any significant weight. Moreover, the order for fines made by MOFCOM lacks concrete details, including the actual amounts, rendering them ineffective. Looking at the implementation over the



past four years, the Unreliable Entity List has had little substantive effect as economic sanctions and has largely served as a symbolic messaging tool to express China's dissatisfaction with arms sales to Taiwan.<sup>17</sup>

Time	Companies Listed
February 2023	Lockheed Martin Raytheon Missiles & Defense (Trade ban with China, prohibition against new investment in China, entry ban on executives, fines equal to twice the amount of arms sales to Taiwan, etc.)
May 2024	General Atomics Aeronautical Systems, General Dynamics Land Systems (Trade ban with China, prohibition against new investment in China, entry ban and cancellation of stay permits for executives)
May 2024	Boeing Defense, Space & Security (BDS) (Trade ban with China, prohibition against new investment in China, entry ban on executives, fines equal to twice the amount of arms sales to Taiwan, etc.)
January 2025	Inter-Coastal Electronics, System Studies & Simulation, IronMountain Solutions, Applied Technologies Group, Axient, Anduril Industries, Maritime Tactical Systems (Trade ban with China, prohibition against new investment in China, entry ban and cancellation of stay permits for executives, etc.)
January 2025	Pacific Rim Defense, AEVEX Aerospace, LKD Aerospace, Summit Technologies Inc. (Trade ban with China, prohibition against new investment in China, entry ban and cancellation of stay permits for executives, etc.)

## (2) Export Control Law

In October 2020, China enacted the Export Control Law, which took effect in December of the same year. This law establishes export control mechanism on dual-use goods, military equipment, nuclear-related materials (including associated technologies and services), and more. The purpose of the law is for China to uphold international obligations concerning national security, non-proliferation, and other interests. The government establishes a list of controlled goods and technologies subject to export restrictions, requiring exporters to obtain state authorization before



exporting items included on this list (Articles 4-12). Additionally, the national export control authority may designate importers and end users who are deemed potential threats to national security or other critical interests on the export control list. The export of controlled goods to entities on this list may be restricted or prohibited (Article 18).<sup>18</sup>

Interestingly enough, Article 48 of the law stipulates that if another country or region misuses export controls to infringe upon China's national security or interests, China may respond with appropriate countermeasures thereof based on the circumstances. It is obvious that this provision is made in response to growing numbers of US export control of advanced semiconductors to China, signaling China's intent to use its export control system as a retaliatory tool. The law further specifies that organizations or individuals outside China who violate its provisions and infringes on China's national security or interests will be held legally responsible (Article 44). This provision requires that the provisions of the Export Control Law be observed even outside China, and it allows for the extraterritorial application of the law, but it is not clear what kind of punishment will be given in the event of non-compliance.<sup>19</sup>

In September 2024, the Regulations on Export Control of Dual-Use Items were promulgated as a subordinate regulation under the Export Control Law and took effect in December of the same year. While the regulations were established for the purpose of detailing the export control system for dual-use goods under the Export Control Law, several new systems were also established by this new regulation. Notably, the State Council's commerce authority is tasked with verifying the end use and end users of dual-use goods. If this verification cannot be completed, the relevant importer and end user will be added to a 'Watch List' (Article 26). This system is equivalent to the Unverified List operated by the US Department of Commerce and is apparently developed responding to series of US decisions to include numerous Chinese companies on that list.<sup>20</sup> Additionally, the commerce authority under the State Council can mandate that individuals and organizations outside China comply with the procedures outlined in these regulations when trading dual-use goods of Chinese origin or goods manufactured using specified technologies (Article 49). This mechanism closely mirrors the US Export Administration Regulations (EAR), extending the ordinance's requirements to activities outside China's borders.<sup>21</sup>

In December 2024, MOFCOM announced two additional export controls: (1) a ban, in principle, on the export of dual-use goods related to gallium, germanium, and antimony to the United States, and (2) stricter scrutiny of the end use and end users of dual-use goods related to graphite exported to the United States. The announcement explicitly emphasized the extraterritorial application of these export controls, requiring compliance from individuals and organizations outside China, with legal actions to be taken against violators. Moreover, in January 2025, 28 US companies were added to the export control list, effectively banning the export of dual-use goods to these entities.<sup>22</sup> This





series of tightened export controls is seen as a retaliatory response to the tightened semiconductor export restrictions imposed by the US on China in December 2024.<sup>23</sup>

### (3) Anti-Foreign Sanctions Law

The Anti-Foreign Sanctions Law, enacted and promulgated in June 2021, declares China's right to take corresponding countermeasures against foreign governments that exert pressure on China or impose discriminatory actions targeting Chinese citizens or companies under their domestic laws (Article 3). Additionally, relevant State Council departments may add individuals and organizations directly or indirectly involved in such discriminatory actions to a countermeasure list (Article 4). The relevant department may also impose to those on the list such countermeasures as visa denial, entry restrictions, property seizure within China, and prohibitions on conducting business with Chinese individuals and organizations (Article 6).

After the Anti-Foreign Sanctions Law took effect, the Chinese government started to explain their sanctions were imposed based on this law. However, for certain periods, the targets of these sanctions were not included on the countermeasure list, nor were the specific details of sanctions specified.<sup>24</sup> For instance, in response to the United States' sale of weapons to Taiwan in February 2022, the Chinese Foreign Ministry announced sanctions on two companies, Lockheed Martin and Raytheon Missiles & Defense, under the Anti-Foreign Sanctions Law. However, these US companies were not added to the countermeasures list, and the specific sanctions were not mentioned.<sup>25</sup> Similarly, in response to US House of Representatives Speaker Nancy Pelosi's visit to Taiwan in August 2022, the Chinese Foreign Ministry declared sanctions on Ms. Pelosi and her relatives under this law. Yet, her name was not included on the list, and the sanction measures were not specified.

The first names to be included in the countermeasures list under this law appeared in December 2022, when China added two individuals residing in the United States to the list and imposed sanctions, including freezing their assets in China and denying them entry, in retaliation for US sanctions on senior Chinese government officials over human rights concerns in Tibet. By the end of 2024, 14 cases were applied with a total of 63 individuals and 59 companies and organizations added in the list. Most of those sanctions were related to Taiwan, including issues such as arms sales to Taiwan and support for Taiwanese leaders' visit, accounting for nine cases.<sup>26</sup> There was also one each case related to Tibet and the Uyghurs. Of the 14 cases, 13 targeted individuals and organizations in the United States. However, in December 2024, sanctions were also imposed on a Uyghur support organization in Canada, a Canadian subsidiary of US company Raytheon, and Raytheon's Australian subsidiary respectively.



#### 4. China's Approach to Economic Sanctions

Based on recent discussions and developments on economic sanctions in China, the following five points can be observed. First, despite China's official stance that it opposes unilateral economic sanctions, China has been steadily advancing a legislative framework since around 2019 to enable the effective imposition of economic sanctions on foreign countries, as well as on overseas individuals and organizations. China's economic sanctions framework is heavily influenced by the US sanctions system and has been developed in a manner that closely mirrors it. For example, China's Unreliable Entity List parallels the US Entity List under the Export Administration Regulations (EAR), while China's Watch List established under the Regulations on Export Control of Dual-Use Items corresponds to the US Unverified List. The operational mechanisms of these systems are also notably similar. As mentioned above, the Export Control Law clearly states that countermeasures will be taken in case a foreign government abuses export controls (Article 48), making clear Chinese intentions to retaliate against the US tightening export controls on China. China has been developing similar economic sanctions system while being subjected to the US economic sanctions, and the economic sanctions systems of both countries are becoming similar.<sup>27</sup>

Secondly, the target of the economic sanctions systems China has established since 2019 are mostly individuals and organizations. Even in cases where China imposes economic sanctions based on the actions of foreign governments, targets of the sanctions are often only individuals and organizations, rather than directly targeting the governments. For instance, the Unreliable Entities List is designed to impose sanctions on those individuals and companies outside China that have undermined China's sovereignty through their economic and trade activities (Article 2). However, all names included in the list so far are US companies that have involved in US arms sales to Taiwan. In addition, the Anti-Foreign Sanctions Law is intended to impose sanctions on those individuals and organizations that are complicit in actions violating China's sovereignty or in discriminatory measures taken by foreign governments (Articles 3 and 4). However, some sanctions imposed under this law do not explicitly identify the state actions that caused them, and some attributes them to the actions of specific individuals.<sup>28</sup> By putting economic sanctions on individuals and organizations rather than states, China can avoid potential negative impacts on its own economy caused by them while expressing dissatisfaction. Additionally, by targeting individuals and companies, entities weaker than the state, China can send clear messages that they will be subject to China's sanctions if they do harm with Chinese interests. China's approach is aimed at deterrence, discouraging foreign individuals and companies from engaging in anti-China activities or supporting anti-China diplomacy in their home countries.<sup>29</sup>

Thirdly, China's legal system regarding economic sanctions stipulates the contents of



restrictive measures that the Chinese government can impose and the procedures for doing so, but it does not show much concern for how the sanctions imposed are to be implemented. For example, the Unreliable Entity List provisions stipulate the investigative procedures for inclusion on the list and the restrictive measures to be taken in the event of inclusion on the list (Articles 2 to 8), but only state that the relevant departments will implement the sanctions and that other organizations and individuals will cooperate with its implementation (Article 10), and do not mention monitoring of compliance with the sanctions or penalties for violations. Similarly, the Anti-Foreign Sanctions Law stipulates the procedures for adding individuals and companies to the countermeasures list and the sanctions to be imposed on them (Articles 4–7). However, regarding enforcement, it only states that the relevant departments will oversee implementation (Article 10) and that individuals and organizations in China are obligated to comply with their decisions, only referring to general legal responsibility pursued for non-compliance (Article 11). Specific penalties for violations, however, are not explicitly defined. China’s economic sanctions prioritize clearly identifying their targets and specifying the content of the measures to be imposed. They appear to be primarily aimed at achieving a deterrent effect, making the targeted parties hesitate at the prospect of sanctions, and at signaling dissatisfaction with the other party’s actions through the imposition of these measures.

Fourthly, China is more actively asserting the extraterritorial application of its laws and regulations, requiring individuals and organizations outside its borders to comply with Chinese-imposed sanctions. As noted above, provisions have been added to the Export Control Law and other related regulations that require their extraterritorial application. In May 2024, MOFCOM explicitly named the American plastics manufacturer Caplugs, saying that it has some evidence that the company was supplying products purchased in China to US companies listed on the Unreliable Entity List. The Ministry demanded that the company: (1) ensure that products and services purchased in China do not end up in the hands of listed companies, and (2) submit evidence of compliance to Chinese authorities. The Ministry also warned that if such measures were not taken, Chinese authorities would implement corresponding countermeasures.<sup>3031</sup> To fulfill the requirement outlined in (1), the company must ensure that goods purchased in China are not provided to entities listed on the Unreliable Entity List, even outside of China. This serves as a concrete example of China explicitly seeking to apply its laws beyond its borders. China has consistently opposed the US practice of applying extraterritorial laws—such as targeting Chinese companies with economic sanctions under US domestic laws, enforcing export control regulations based on the transactions with Chinese companies outside the US, and sanctioning Chinese companies for transactions with Russia conducted outside US borders. China has strongly criticized the US for its “long-arm jurisdiction.”<sup>32</sup> In addition, in order to counter



the extraterritorial application of foreign laws, China formulated the Measures to Block the Improper Extraterritorial Application of Foreign Laws and Measures in January 2021, which imposes a reporting obligation in cases where normal economic and trade activities are blocked by foreign laws, and stipulates that the unreasonable application of foreign laws is prohibited.<sup>33</sup> The Anti-Foreign Sanctions Law also prohibits individuals and organizations within China from enforcing sanctions based on foreign laws or cooperating with their enforcement (Article 12). While it has traditionally criticized the extraterritorial application of domestic laws, China has now apparently begun to require compliance with its own laws beyond its borders. At the same time, China's extraterritorial application only mandates compliance with its laws and regulations at present, without imposing fines or other penalties for violations. It will be important to observe whether China will start imposing penalties on companies for violating its economic sanctions in the future, and to what extent it will expand its extraterritorial reach.

Fifth, like many other Chinese systems, China's economic sanctions laws and regulations are often vague and unclear in terms of definitions, procedures, and penalties, giving significant discretion to the Chinese government authorities responsible for their implementation. For instance, Article 49 of the Regulations on Export Control of Dual-Use Items stipulates that the commerce department under the State Council can require individuals and organizations outside of China to comply with these regulations, even if the goods were manufactured outside China, in such cases they contain dual-use items of Chinese origin, thereby clearly demonstrating the extraterritorial application of Chinese law. However, this provision does not specify the degree to which dual-use goods of Chinese origin are included in the product for the law to apply, leaving this determination to the discretion of Chinese authorities. Moreover, the provision only states that Chinese authorities *can* demand foreign businesses comply, meaning they does not always demand compliance. There are no penalties for the incompliance either. By keeping the details of the system vague, it is believed that the aim is to give Chinese authorities the flexibility to respond to individual, specific situations.<sup>34</sup> However, for foreign companies dealing with Chinese products outside of China, especially those that could be classified as dual-use goods, it remains unclear whether the regulations apply to their products. This uncertainty poses a risk that they may unexpectedly be required to comply with the regulations.

## 5. Implications for Japan

As seen, China has been developing legislation related to economic sanctions since 2019 and has begun to seek the extraterritorial application of its laws. Notably, the number of sanctions based on the Anti-Foreign Sanctions Law increased from 1 case in 2022 and 2 cases in 2023 to 11 cases in 2024, signaling China's growing willingness to impose economic sanctions. As China becomes



more assertive in its use of economic sanctions, the following specific policy recommendations for Japan are offered below in conclusion.

Firstly, China is increasingly demanding the extraterritorial application of its own laws and appears to be imitating the systems and enforcement mechanisms of US economic sanctions. Should this trend continue, Japanese companies may find themselves caught between the conflicting laws of both the US and China.<sup>35</sup> For instance, if the US imposes sanctions on a Chinese company and restricts transactions with it, Japanese companies could face US penalties for continuing to do business with that company. On the other hand, if they cease doing business with the Chinese company, they may risk violating Chinese law. In another case, if China imposes sanctions on a US company and restricts transactions with it, Japanese companies that do business with that US company could be against the laws in China. However, if they cease doing business with the company, they may lose access to the US market. While it is essential for global companies to comply with the laws of each country, it is not ideal for Japan to remain caught between the conflicting interests of the US and China. At the very least, Japan should develop laws that negate the effects of foreign government measures based on their domestic laws. In fact, the EU and Canada have enacted laws stating that economic sanctions imposed by the US under its own laws do not apply within their territories.<sup>36</sup> Despite such laws, companies often comply with US sanctions to avoid potential restrictions on access to the US market, but these are decisions made by respective companies.<sup>37</sup> It is crucial for Japan to clarify that there is no legal issue regarding the violation of foreign sanctions within its jurisdiction.

Secondly, as noted above, China tends to target individuals and companies for economic sanctions, even in cases involving bilateral issues. Although no sanctions have been imposed on Japan thus far, it is conceivable that, in the event of a future diplomatic conflict between Japan and China, China could take restrictive measures against related Japanese companies and individuals. These measures could include freezing assets in China, banning business dealings with Chinese entities, and prohibiting entry into China, under the justification that they cooperated with the Japanese government. The Japanese government does not need to compromise its diplomacy due to the possibility of sanctions by China, but it is necessary for it to be aware of the risk of sanctions being imposed on Japanese companies and to communicate with them in advance.

Thirdly, the Japanese government needs to call on the Chinese government to improve the transparency of its laws and regulations regarding economic sanctions as well as their implementation. As mentioned above, China's legal system regarding economic sanctions does not explicitly stipulate any details, thus giving the authorities a great deal of discretion. While the lack of transparency can provide the Chinese government with the flexibility needed to respond to circumstances, which can work to Japan's advantage in some cases, it is also a major challenge for



Japanese companies doing business in China.<sup>38</sup> By leaving much of the ambiguity in place when it comes to measures with a significant impact, such as economic sanctions, risks for Japanese companies doing business in China will only increase, as will the risk of being caught between the US and China amid their ongoing conflict. Japan must point out the problems caused by the lack of transparency in Chinese laws and regulations, and tenaciously demand greater transparency.

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- <sup>1</sup> 2022年7月に行われた習近平思想外交学習会において、王毅国務委員兼外交部長（当時）は「習近平外交思想は勇気をもって責任を持ち、闘争を行う」旨指摘している。（中国外交部「王毅：更加深刻领悟习近平外交思想勇于担当、敢于斗争的使命感意识」[https://www.mfa.gov.cn/wjdt\\_674879/wjbxw\\_674885/202207/t20220724\\_10726770.shtml](https://www.mfa.gov.cn/wjdt_674879/wjbxw_674885/202207/t20220724_10726770.shtml)（2024年12月24日閲覧）
- <sup>2</sup> 中国との関係を指摘するものとして、例えば、日本貿易振興会「EU、経済的威圧への対抗措置の反威圧手段規則を正式採択、12月に施行予定」<https://www.jetro.go.jp/biznews/2023/11/7a9e06e6c1c91726.html>（2024年12月24日閲覧）
- <sup>3</sup> 2023年5月のG7首脳コミュニケに対して、孫衛東外交部副部長が垂在中国日本大使（当時）に抗議を行った際、同副部長は、「中国は互惠・ウィンウィンの開放的な戦略を堅持しており、「経済的脅迫」や「債務の罠」といった汚水を中国に浴びせることはできない」旨述べている。（中国外交部「外交部副部长孙卫东就七国集团广岛峰会炒作涉华议题向日方提出严正交涉」[https://www.fmprc.gov.cn/gjhdq\\_676201/gj\\_676203/yz\\_676205/1206\\_676836/xgxw\\_676842/202305/t20230521\\_11080924.shtml](https://www.fmprc.gov.cn/gjhdq_676201/gj_676203/yz_676205/1206_676836/xgxw_676842/202305/t20230521_11080924.shtml)（閲覧日：2024年12月22日）
- <sup>4</sup> 経済制裁と経済安全保障との関係について、鈴木（2024）は、米国の経済安全保障は、国家安全保障のために経済を武器にするという側面が強調され、経済制裁を使用する旨指摘する。
- <sup>5</sup> 経済制裁の定義については、例えば、奥迫（2017）や関下（2021）、野口（2024）などで国外の議論も含めて紹介されている。奥迫（2017）は、「経済制裁は、国際関係において広く用いられてきた政策手段であるが、その定義や分類法は必ずしも明確にされてきたわけではなく、（中略）むしろ依然として極めて曖昧模糊な概念である」という。
- <sup>6</sup> 経済的威圧と経済制裁との関係について、野口（2024）には、経済的威圧は経済制裁の一つの範疇だとする見方が紹介されている。また、大橋（2023）は、中国の経済的威圧は非公式な手段を使い政府の関与を明確にできないところに特徴があるが、米国の経済制裁や経済的威圧は正式な制裁措置を使うところが違うとしており、経済的威圧と経済制裁とを特に区別していない。
- <sup>7</sup> この点を特に議論するものとして、例えば、解（2022）や楊（2024）などがある。
- <sup>8</sup> 解他（2022）は、経済的威圧（「経済強制」）は、西側諸国による政策の実践に基づく概念であり、理論も大部分が西側諸国で生まれているものであるから、中国国内の研究はまだ多くないという。また、楊（2024）は、現在のところ中国での経済的威圧（「経済脅迫」）に関する研究は国際政治・国際研究であり、関連の国際法分野の文献は数少なく、扱っているのも米国の経済的威圧の合法性か、EUの反経済的威圧に関する立法に限られている旨指摘している。
- <sup>9</sup> 最近でも、ロシアのウクライナ侵攻に関連してEUが対ロシア制裁を強化したことに對して、2024年12月17日の中国外交部定例会見において、報道官は、「中国は、国際法の根拠がなく、国連安保理の授權のない一方的制裁に一貫して反対している」と述べている。（中国外交部[https://www.mfa.gov.cn/web/fyrbt\\_673021/jzhsl\\_673025/202412/t20241217\\_11495600.shtml](https://www.mfa.gov.cn/web/fyrbt_673021/jzhsl_673025/202412/t20241217_11495600.shtml)（閲覧日：2024年12月18日）
- <sup>10</sup> 例えば、日本による福島第一原発の処理水放出に対して、2023年8月に中国は日本産水産物の輸入を一時停止する措置をとった。外交部定例会見において、これは経済的威圧ではないかと問われた外交部報道官は、「中国の取った措置は人情や道理にかなったもので、合法的なものだ」と回答している。
- <sup>11</sup> 中国は、台湾は中国の領土の一部であり、台湾に関する事項は内政であるとの立場を取っており、台湾に対する措置は中国側の文献には含まれない。久野（2023）やHufbauer and Jung（2020）は、中国による威圧的行為とされる行為をまとめた表を掲載しているが、これらのうち、2016年の台湾に対する観光制限は方（2020）には経済制裁の例として含まれていない。
- <sup>12</sup> Xiong（2024）は、中国の経済的威圧は米国と異なり矯正型であるという中国側の主張





は、中国が単独で行う経済制裁に反対する立場を取ってきていることとの整合性を取るためのもので、中国の経済制裁を正当化しようとする議論だと指摘している。

<sup>13</sup> 習近平総書記は2019年2月の中央全面依法治国委員会第2回会議、2019年11月の中央政治局第10回集団学習会において、渉外法務の整備の重要性を述べている。(中国中央人民政府 [https://www.gov.cn/xinwen/2019-02/25/content\\_5368425.htm](https://www.gov.cn/xinwen/2019-02/25/content_5368425.htm) (閲覧日: 2024年12月20日)、中国中央人民政府

[https://www.gov.cn/yaowen/liebiao/202311/content\\_6917473.htm](https://www.gov.cn/yaowen/liebiao/202311/content_6917473.htm) (閲覧日: 2024年12月21日))。劉他(2021)は、「輸出管理法」の制定は國務院の2016年の計画において言及され、2017年6月に草案がパブリックコメントにかけられていたが、その後の一時期、制定の動きが止まっていたと指摘し、2019年の習近平総書記のこの発言により、「輸出管理法」の制定が再び動きだしたことを示唆している。

<sup>14</sup> この他にも、中国が経済的な制限措置を行うことを規定したのものとして、2023年6月に成立した「対外関係法」(第33条において、他国による主権侵害などに対して報復を行う旨規定)や2024年2月に成立した「関税法」(第17条において最恵国待遇などを履行しない国に対する報復関税を行う旨規定)などがある。

<sup>15</sup> 2019年6月には、国家發展改革委員会が「国家安全法」などの関連法令に基づき、「国家技術安全管理リスト制度」を設立し、より効果的に国家安全に関するリスクに対応する旨公表されているが、同制度はいまだ公表されていない。

<sup>16</sup> 「信頼できないエンティティリスト規定」は、政府は職権または関係者からの通報などに基づいて、信頼できないエンティティリストに掲載するかの調査を行うかを決定し、調査を行う決定をした場合にはこれを公表する(第5条)。調査に基づき、諸要素を総合的に判断して、政府はリストに掲載するかを決定する(第7条)が、当該エンティティの行為が事実明白な場合には、直接決定をできるとされている(第8条)。これまでの3件については、いずれも調査は行われていない。

<sup>17</sup> リストに掲載された米国企業への影響はほとんどない旨指摘するものとして、例えば、2024年5月20日付 Bloomberg 記事「China Hits Boeing Defense With Sanctions as Taiwan President Is Inaugurated」参照(<https://www.bloomberg.com/news/articles/2024-05-20/china-hits-boeing-defense-two-others-with-symbolic-sanctions> (閲覧日: 2024年12月20日))。

<sup>18</sup> 「管理規制品リスト」は同法制定後もしばらく制定されていない状態が続いたが、2024年11月に商務部は同リストを発表した。これにより、従前に出されていた軍民両用品に関する規制は、一部を除き、廃止された。(中国商務部「商務部 工业和信息化部 海关总署 国家密码局公告 2024年第51号 关于发布《中华人民共和国两用物项出口管制清单》的公告」

[https://www.mofcom.gov.cn/zcfb/dwmygl/art/2024/art\\_e56833e346534981b250bae772d0cbce.html](https://www.mofcom.gov.cn/zcfb/dwmygl/art/2024/art_e56833e346534981b250bae772d0cbce.html) (閲覧日: 2024年12月18日))

<sup>19</sup> 劉他(2021)は、「輸出管理法」第44条の規定は、域外適用の先行事例である「独占禁止法」に比べて明確に域外適用を定めるものであるが、対象となる取引や規制物品などを明確にする必要があるとしている。

<sup>20</sup> 米国の制度との類似性を指摘したものとして、例えば、安全保障貿易情報センター「中国輸出管理法に基づく「両用品目輸出管理条例」が公布、12/1施行(改定2版)」

[https://www.cistec.or.jp/service/keizai\\_anzenhosho/china/data/20241021.pdf](https://www.cistec.or.jp/service/keizai_anzenhosho/china/data/20241021.pdf) (閲覧日: 2024年12月18日)。

<sup>21</sup> 米国EARにある再輸出規制(他国に輸出された製品、または他国で加工されたが米国産品が一定割合含まれる製品を第三国に輸出する場合の規制)との類似点などについては、上掲安全保障貿易情報センター記事が詳しいが、本条例の規定では、米国の再輸出規制に比べて、中国製産品がどの程度含まれるものが規制対象となるか等は明確ではない。

<sup>22</sup> リストに掲載された28社のうち、3社は信頼できないエンティティリストに既に掲載されている他、後述する「反外国制裁法」に基づき2024年5月に制裁リストに掲載された12社、6月の3社、7月の6社が掲載されている。今回の決定では米国企業4社が新た



に経済制裁の対象となった。

<sup>23</sup> 例えば、2024年12月4日付朝日新聞記事「中国、重要鉱物を対米禁輸 半導体規制強化に対抗 第三国経由も」<https://digital.asahi.com/articles/DA3S16098801.html>（閲覧日：2024年12月23日）。

<sup>24</sup> 報復リストは、中国外交部のホームページに掲載されている（中国外交部報復リスト及び措置 [https://www.mfa.gov.cn/web/wjb\\_673085/zfxxgk\\_674865/gknrlb/fzcqdc/](https://www.mfa.gov.cn/web/wjb_673085/zfxxgk_674865/gknrlb/fzcqdc/)（閲覧日：2024年12月28日））。

<sup>25</sup> これら米国企業は、2023年2月に「信頼できないエンティティリスト」に掲載された上で、2024年5月に改めて「反外国制裁法」による報復リストに掲載されている。

<sup>26</sup> 対象時期を異にするものであるが、Ghiretti (2023)も、中国が制裁を発動するきっかけは台湾問題が最も多い旨指摘している。

<sup>27</sup> Xiong (2024) は、中国は米国の経済制裁が標的を限定し、国内法制度を利用したものだということを理解し、米国のまねをしようとしている旨指摘する。

<sup>28</sup> 例えば、2024年7月に中国外交部は Jim McGovern 米下院議員に「反外国制裁法」に基づく制裁を行ったが、その際には同議員の反中の言動を問題にしている。2024年12月のカナダのウイグル支援団体などへの制裁では、原因とされる行為が特定されていない。

<sup>29</sup> Xiong (2024) によれば、過去20年間、米国の経済制裁が標的を個人・団体に絞るようになったことを中国はよく理解し、標的を限定することで対象は国ではなく、特定の政治エリートや社会集団、個人であることを示唆できること、標的を絞ることで経済制裁のもたらす自国への影響（経済制裁による自国産業への影響）を最低限に出来ること、中国市場へのアクセスを使って多国籍企業に圧力をかけることができるということを中国は理解しているという。また、Ghiretti (2023)は、中国が個人・団体を対象とした制裁を好む理由として、強いシグナルを送りつつ中国経済への影響を限定できること、制裁された者にだけ影響を与えることで社会の分断をもたらすことが出来ることを指摘する。

<sup>30</sup> 2024年5月20日付中国商務部公告「不可靠实体清单工作机制关于对通用原子航空系统公司等三家美国企业采取不可靠实体清单措施的公告」

[https://www.mofcom.gov.cn/zwgk/zcfb/art/2024/art\\_66b71fa5abbc4adebaad4163889659b8.html](https://www.mofcom.gov.cn/zwgk/zcfb/art/2024/art_66b71fa5abbc4adebaad4163889659b8.html)（閲覧日：2024年12月23日）

<sup>31</sup> 同社ホームページによれば、Caplugs社は、米国ニューヨーク州に本社があり、米国やカナダ、欧州、オーストラリアなどに拠点を有している。中国には、江蘇省常州市金壇に拠点がある。（Caplugs社ホームページ <https://www.caplugs.com/about-us>（閲覧日：2024年12月27日））

<sup>32</sup> 2023年2月、中国外交部は米国の国内法令域外適用に関するレポートを作成し、イランやリビアなどへの一方的制裁や米国通商法301条の濫用、2013年にフランス企業幹部のピエルッチ氏が米国内法令違反により米国内で逮捕された事案などを取り上げて、米国が一方的に国内法令を適用し、実施していることを批判している。（中国外交部「美国滥施“长臂管辖”及其危害」

[https://www.mfa.gov.cn/web/wjbxw\\_673019/202302/t20230203\\_11019274.shtml](https://www.mfa.gov.cn/web/wjbxw_673019/202302/t20230203_11019274.shtml)（閲覧日：2024年12月20日））

<sup>33</sup> 2007年9月の時点で、商務部は、中国で登録された法人は外国の輸出管理に関する現場視察や検査を受け入れてはならない旨の公告を出している。また、「デュアルユース品目輸出管理規則」も、外国政府の輸出管理に関する現場視察などがあった場合には当局に報告し、政府の同意を得なければ視察を受け入れてはならない旨規定している（第38条）。また、「外国法令不当域外適用遮断弁法」第12条は、外国法令の不当な域外適用に対して、中国は状況に応じて対抗措置を取るとしている。

<sup>34</sup> Xiong(2024)は、中国による貿易の武器化と米国の制裁との主要な違いは、中国の措置が非公式なもので、不透明な執行手続によるものであることにありと指摘する。同論文では、中国は、予告無しに貿易に対する妨害を行うことで、WTOのルールとの整合性を問われた場合には関係を否定できるし、危機をエスカレートしないようにすることができるが、中国国内には、明確性を求める意見も出ているという。

<sup>35</sup> 同様の指摘をするものとして、例えば、中谷（2022）。



<sup>36</sup> EU の Blocking Statute、カナダの Foreign Extraterritorial Measures Act。(McMillan 「The Next Wave of US Extraterritorial Sanctions regarding Cuba – Potential Impacts for Canadian Companies」 <https://mcmillan.ca/insights/the-next-wave-of-us-extraterritorial-sanctions-regarding-cuba-potential-impacts-for-canadian-companies/> (閲覧日：2024 年 12 月 28 日))

<sup>38</sup> 中国日本商会の白書において、行政の予見性・透明性の向上は、中国政府に期待することの主要な 3 つの事項の一つとして明記されている。(中国日本商会 (2024) 『中国経済と日本企業 2024 年白書』)