International Journal of Engineering & Technology, 7 (3.29) (2018) 593-596

International Journal of Engineering & Technology

Website: www.sciencepubco.com/index.php/IJET

Research paper



International financial sanctions: definition and historical evolution and the enlightenment on china's major country diplomacy in the new ERA

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Abstract

Being a representative way of "smart sanctions", international financial sanctions have been increasingly adopted since the World War. This article, proceeding from the definition of international financial sanctions, sorts out its development stages and then discusses the rationality of its existence. It's held in this article that the international financial sanctions based on multilateralism are reasonable to a certain degree for maintaining a sound global order. But given the asymmetric interdependence of the current international financial power, it is necessary to prevent financial sanctions from being taken advantage of by some major powers to interfere in other countries' internal affairs. It's suggested in the end of the article that on the one hand, China needs to take precautions in financial sanctions imposed by other countries; on the other hand, against the new era background of building a community of shared future for mankind and constructing a new model of international relations, China should change perceptions, take actions, and give full play to non-violent means such as financial sanctions so as to maintain its core national interests and global governance. Meanwhile, the sanction rules and system design should also be bettered.

Keywords: *Financial Sanctions; Rationality; Multilateralism; China's Major Country Diplomacy*

1. Introduction

Financial sanctions play a significant role in the foreign strategy of a country. From the macro perspective, it constitutes an important part of the economic diplomacy; from the micro perspective, it presents a choice of foreign strategy between military action and diplomatic negotiation. The national interests are increasingly financialized against the backdrop of global financialization. International financial sanctions, an important means of safeguarding national interests, have risen significantly in status and been applied more and more widely. According to the statistics by G.C.Hufbauer, there appeared 204 cases of global economic sanctions around the world from 1914 to 2006, 153 out of which employed the financial sanctions and trade control alone or in combination. The most representative presents
America's sanctions after the outbreak of the Ukrainian crisis, causing a heavy blow to the Russian economy.
It is put forward that international financial sanctions have been increasingly applied. Then what about the rationality ? For the developing countries, especially China, the second largest economy in the world, how can it maintain its financial security in the context of China's major country diplomacy in the new era and in the transition from a trade power to a financial power? In the practice of China's major country diplomacy, how should China perceive the international financial sanctions so as to take the initiative in safeguarding national interests? This article will proceed from the definition of international financial sanction and sort out its development.

2. The definition of international financial sanctions

There exists no unified and comprehensive definition
international financial sanctions in the practical application in the field of international politics or in the study of international relations. Normally, scholars would view financial sanctions as a part of economic sanctions, namely the application of financial solutions in economic sanctions. Here in this article, the definition of international financial sanctions will be discussed from both its connotation and extension.

1) Connotation

1) Mandatory in sanctions

The essence of financial sanction lies in "sanction" which indicates "strong forces are employed to control and punish so as to eradicate misbehavior" from Chinese dictionary and a specific penalty for disobeying God's will, laws and regulations in English. In New Oxford English Dictionary, the word "sanction" denotes "Measures taken by a state to force another to conform to an international agreement or norms of conduct, typically in the form of restrictions on trade or official sporting participation". It can be told that "financial sanctions" represent penalty for illegal act or mandatory measures to coerce another actor into behavior change.

1) Diversified in the subject of sanctions

The subject was in general single country in earlier financial sanctions. The 1990s saw the all-around participation of the United Nations, a supranational player, in sanctions. The three international economic organizations, the International Monetary Fund, the World Bank, and the World Trade Organization, were also

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involved to a certain degree in the economic sanctions. Resultantly, the scope of subjects in economic sanctions widens furtherly. Financial sanctions are no longer "exclusive" to a certain country or countries. Currently, the subjects who implement international financial sanctions expands to all international actors, including sovereign countries such as the United States and Japan and supranational actors such as the United Nations and the European Union, and also to such non-state actors as the US state governments.

2) Diversified in the object of sanctions

In earlier sanctions, comprehensive economic sanctions were commonly implemented, and the objects tended to be sovereign states. In entering the 21st century, the scope of finance expands increasingly. And all the actors related to capital flow turned out the implementers of financial sanctions, and thus the objects expand in scope to those non-state actors such as financial organizations, for instance banks, enterprises and individuals besides sovereign states.

3) Politicized in goals of sanctions

Given the actual situations of sanctions, the ultimate goal of economic sanctions is primarily political, including international political goals and domestic political goals. To be specific, the goal could be expressing political stance, defending democracy and human rights, fighting against terrorism and satisfying the needs of domestic interest groups.

4) Financial zed in the measures of sanctions

Finance has evolved into the core of modern economy, and international financial relations have become an important factor in influencing international relations. To coerce the sanctioned party into behavior change, financial sanctions are employed mainly in the form of impeding its capital flow. Financial instruments commonly seen primarily include: (1) freezing of assets or confiscation of assets; (2) cancellation of loans or investments (economic assistance); (3) cutting off access to the U.S. dollars or channels of using U.S. dollars; (4) prohibiting transactions between global financial institutions and the sanctioned parties; (5) sanctioning the banking system and the like.

1) Extension

Having sorted out the connotation, what comes next is to figure out whether financial warfare for the economic purpose is a type of financial sanctions? It's deemed in this article that financial sanctions, being a special form of economic sanctions, promote transformation through pressure while achieving the political or security goals by way of economic and financial instruments. Financial sanctions and financial warfare are interconnected. But in a strict sense, they are disparate. In an era of economy entangled tightly with politics, financial warfare is in essence an economic act targeting basically for economic interests, although harboring probably an indirect political goal. Nevertheless, the goal of financial sanctions is essentially super-economic and dominated by politics. Power-obtaining or security-safeguarding constitutes the direct and fundamental purpose of the country imposing sanctions who would sacrifice its economic interests for this purpose. Therefore, financial warfare can't be categorized as a form of financial sanctions.

2) Defining International Financial Sanctions

Based on the above analysis, the international financial sanctions are defined as: one or more international actors employ financial instruments to impose sanctions on the other or multiple other international actors in the financial sector with an eye to achieving some certain political interests.

3. The historical evolution of post-war international financial sanctions

Financial sanctions are not new as a means of foreign policy. The resolutions passed by the United Nations over the years contain a large amount of content referring to financial sanctions. According to the statistics from the Panel of Experts on Economic Sanctions of the Peterson Institute for International Economics, 153 out of 204 cases of global economic sanctions over the past century employed the financial sanctions and trade control alone or in combination . The evolution of financial sanctions can be divided specifically into the following stages.

1) A Supplement to the Comprehensive Economic Sanctions During the Cold War

During the Cold War, the sanctions applied by actors such as the United Nations and the United States were primarily comprehensive economic sanctions. Such sanctions aim to exert as much pressure as possible on the sanctioned so that they can convey the signal of revolution internally from bottom up, and that eventually the decision-makers will be forced to adjust the policy. The typical examples include the western economic blockade against China from 1950 to 1970, the America's economic sanctions against Cuba since the Cuba missile crisis, and the U.N. economic sanctions against Iraq and Haiti in the 1990s. In the course of comprehensive sanctions, such instruments as trade control were widely used while financial sanctions only served as a supplement to the comprehensive economic sanctions. For instance, the U.S. successively imposed financial sanctions on Japan, the Soviet Union, China and North Korea, including asset freezing and investment termination. At that time, these countries were not that reliant on international financial system, and the sanctions were simple and infrequent, and thus didn't arouse much concern. The comprehensive sanctions failed to achieve the expected goal, and worse still, they even backfired. The sanctioned regime might stick to the original policy in a more stubborn and resolute way, resulting in a large number of humanitarian issues. For instance, the comprehensive sanctions implemented by the U. N. against Iraq led to a large scale of humanitarian disaster, and those against Haiti and Yugoslavia caused economic crimes . Meanwhile, with the rise of terrorism and religious extremism, the comprehensive economic sanctions characterized by cutting off the trade relations have become "sheer powerless".

2) The Core Content of "Smart Sanctions" After the Cold War

After the end of the Cold War, there appeared major adjustments in the area of international sanctions. The concept of "smart sanctions", emphasizing pertinence instead of pressure maximization, was put forward and soon became the main mode of international sanctions. Switzerland, Germany, and Sweden successively launched the Interlaken Process, the Bonn-Berlin Process, and the Stockholm Process. They discussed meticulously the three pillars of targeted sanctions: financial sanctions, arms embargoes, and travel bans. Apart from this, three reports were issued on how to implement and improve targeted sanctions. All of these played a key role in the transition of international sanctions from comprehensive sanctions to targeted sanctions. In contrast to the traditional comprehensive sanctions, smart sanctions target directly decision-makers and seeks to clamp down on travel, property, luxury and the like, while evading adverse impacts on the innocent groups unrelated to decision-making. In the multi-pronged approach, sanctions are carried out variously and in detail, like specific commodity or industry sanctions, targeted financial sanctions, travel restrictions, arms embargoes, and stylist boycotts . The financial sanctions lie right in the core of "smart sanctions" . The U.N. Security Council has increasingly employed financial sanctions in its resolutions. moreover, such financial powers as the U.S. and the European Union have also viewed financial sanctions as the main mode of their foreign economic sanctions . To force Iran to abandon the nuclear program, the U.S. and other countries carried out multiple rounds of financial sanctions. The resultant Geneva Agreement marked a breakthrough in Iran's nuclear issue.

3) An Independent Sanction System Established After "911"

On entering the 21st century, the development of financial globalization and the innovation of electronic information technology make it easier to track and block capital flow. The financial sanctions, an important part of economic sanctions, are gradually developing into an independent sanction system and are adopted more and more widely. After 9•11, the U.S. Department of the Treasury cooperated with the Society for Worldwide Interbank Financial Telecommunications (SWIFT), in which the former

could obtain part of the data on global financial transactions as required. In consequence, its financial intelligence capabilities have been greatly enhanced. According to statistics, the U.S. implemented independently or took part in17 economic sanctions from 2000 to 2011, 13 of which contained explicitly financial sanctions . The objectives and means of financial sanctions become more diversified. To be specific, the sanctioned expands from countries to specific government agencies, enterprises and individuals, while the sanctions include both the traditional sanctions, such as freezing government assets and suspending commercial loans, and some new means such as freezing personal or physical assets, restraining the investment and financing of the sanctioned and cutting off its access to the international financial markets. There are a few factors that can explain the increasing importance of financial sanctions. First, financial sanctions, being flexible, are simple in initiation and easy in implementation, and can be adjusted and cancelled in the process of operation. Second, the scope of application is large. They can cope with such "high political" issues as military security conflicts, political crisis and terrorism, and also such "low political" issues as economic and trade frictions and humanitarianism. They can target both "hostile" countries and allies or friendly countries. Third, the consequences are controllable. The sanctions won't lead to causalities or wars. Neither will they result directly in humanitarian disaster. What's more, they do less harm to the launching countries and thus are bettered accepted by the international community.

4. The rationality of international financial sanctions

With the international financial sanctions more and more widely employed, there arises another doubt about whether the implementation is rational or not? This part starts with a brief analysis of the implementing subject, the U.N.

The U.N., the defender of global multilateralism, is the central organization that coordinates international conflicts and safeguarding the world's security and stability. The legal basis for the U.N.'s initiation of financial sanctions is legally based on the Charter of the United Nations. There are two provisions concerning the implementation of international financial sanctions. The first presents Article 25, "Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter", the other being Article 41, "The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the U.N. to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations." the two articles contains, in the view of all countries, two basic conditions for fulfilling the obligations of international financial sanctions. It's not hard to draw the following conclusions through analysis:

First, the implementation of relevant sanctions should be decided by the U.N. Security Council in the way of resolution. In this sense, the resolution by the U.N. Security Council, a product of global multilateralism, is the legitimate guarantee for implementing financial sanctions.

Second, the relevant sanctions can merely take on the form of "other than force". All the U.N. member states should shoulder the obligation of non-force sanctions, including financial sanctions.

Third, the resolutions on financial sanctions by the Security Council are more of guideline than mandatory. There lacks a unified international organization to supervise the implementation of the resolutions in various countries. That's why the domestic legal or administrative approval of the U.N. member states is required.

Fourth, financial sanctions are guaranteed by the domestic laws of the U.N. member states. If there are no such domestic laws or regulations on the specification and implementation of the resolutions by the Security Council, the member states won't be able to guarantee the effectiveness of financial sanctions .

Take the E.U. for another example. the E.U. is the world's largest economy, the main international financial center as well as the world's largest international trading entity. Its sound economic strength provides a solid basis for the implementation of financial sanctions. The E.U.'s external financial sanctions are composed of the sanctions implemented to carry out the U.N. Security Council's resolutions and its own spontaneous sanctions. it's not difficult to tell from the above analysis that the former is internationally rational. The latter is featured by the principle of unanimous approval, the multi-layered structure of relevant mechanisms and diversification in actors. These attributes render the above decision multilateral in contrast to some unilateral sanctions, which endows virtually certain legitimacy . The E.U. has enacted laws to lay a legal basis for the implementation of financial sanctions. Article 301 of the Treaty on European Union explicitly postulates that "The Council should take necessary emergency measures, when according to the common position or joint action document established by the Treaty on European Union concerning the Common Foreign and Security Policy (CFSP), the European Community should take actions, in part or in whole interrupting or reducing economic relations with one or more third countries. The Council shall act on the basis of the (E.U.) Commission's proposals and in the manner of specific majority decision-making." After the founding of the E.U., its content on economic sanctions was explicitly included in the Treaty of Rome. Moreover, special provisions on financial sanctions were set down and clarified that trade and financial sanctions should be subject to the decisions by the E.U.. In this sense, not only does the financial sanctions of the E.U. enjoy an internal legal basis, but also attaches great importance to internal multilateralism and unanimous decision-making. to some extent, the rationality is relatively robust.

Finally, we come to the U.S.---the country which carries out the most unilateral financial sanctions. The financial sanctions in the U.S. can be divided into two categories, the implementation of resolutions by the U.N. Security Council and the unilateral/multilateral financial sanctions launched by the U.S.. By the same token, the former is internationally rational. As for the latter, the U.S. has introduced a series of laws regarding financial sanctions, such as International Emergency Economic Powers Act, National Emergencies Law, Patriot Act, and National Defense Authorization Act. These laws provide legal support for the unilateral financial sanctions launched by the U.S.. For instance, the Patriot Act promulgated in 2011 stipulates that when the U.S. is under the threat of armed hostilities or attacks from foreign countries or nationals, even though the president hasn't declared or doesn't have to declare the state of emergency, the president can still impose financial sanctions on the specific foreigners, foreign organizations or foreign countries as regards partial or isolated hostile incidents or attacks, such as confiscations of assets .

The most controversial remains the third-party sanctions carried out by the U.S. Unlike the direct economic sanctions which are confined to the territories of the launching countries, the third-party sanctions govern also the actors and actions out of the territories. For example, National Defense Authorization Act for Fiscal Year 2012 of the U.S. stipulates that since the sixtieth day after the act comes into effect, if any foreign financial institution conducts deliberately large-scale financial transactions with Iran Central Bank or other Iran financial institutions that have been placed on the list of sanctions by the U.S. Treasury Secretary, or assist them in large scale financial transactions, the president of the U.S. should prohibit it from opening a proxy account or a transferring account, and prohibit the preservation of such accounts or set rigid restrictions for the retention of such accounts. It's apparent that the third-party sanctions lack international legitimacy. They are an important means of strengthening unilateral economic sanctions when it is difficult for the United States to achieve multilateral international cooperation. The third party aims to curb the situation where the sanctioned object evades sanctions through third-party channels. That the U.S. adopts the domestic law in the inter-

national scope mirrors the hegemonism of the U.S. foreign policy and evokes unanimous criticism around the world . Given the asymmetric interdependence of financial power, third-party sanctions are in essence a tool for the U.S. with unique financial advantages to interfere in other countries' internal affairs.

5. Enlightenment on China's major country diplomacy in the new ERA

China had been suffering from financial sanctions for a long time in the past. On December 16, 1950, Truman, the then American president, declared a series of economic sanctions against China, including freezing all the assets of Chinese government and relevant institutions in America, for the reason that the People's Republic of China posed "a threat to the freedom, free economic system and other rights guaranteed by the Bill of Rights". The sanctions lasted for almost 30 years. In recent years, Chinese enterprises or individuals have been suffering from America's third-party financial sanctions. On June 13, 2006, the U.S. Department of the Treasury, on the ground of China Great Wall Industry Corporation offering assistance to the missile program of Iran, placed this corporation along with other three on the list of financial sanctions and announced freezing their assets in the U.S.. On January 12, 2012, the United States announced sanctions on Zhuhai Zhen-Rong Company in China, accusing the company of violating the US ban by making over 500 million dollars in the supply of gasoline to Iran.

On the one hand, China needs to ponder upon how to guard against the risks of financial sanctions, and on the other hand, figure out how to take the initiative in resolutely defending national sovereignty, safeguarding national interests, promoting the construction of a new type of international relations, and building a community of shared future for mankind? China is approaching the center of the international stage and becoming ever stronger. it's necessary to practice such concepts as mutual respect, fairness and justice, and win-win cooperation as well as corresponding norms of international relations. China's major country diplomacy in the new era is confronted with a big task concerning how to play a role as a responsible power in constructing a new type of international relations and how to safeguard national interests in the face of harsh reality. In the implementation of financial sanctions, great importance should be attached to the following principles:

First, adhering to the principle of multilateralism. China advocates respect for the social systems and development chosen by various countries. It insists on equality of sovereignty, inclusiveness and mutual learning, and objects to bullying or adopting illegal measures to subvert other countries' legitimate regime. In terms of financial sanctions, China sticks to the common will of the international community and honors the goal of maintaining its common interests. adhering to multilateralism, China also takes multilateral action under the authority of the U.N. Security Council and rejects power politics as well as hegemonism.

Second, adhering to the principle of fairness and justice. The international community needs an international system to safeguard the fairness and justice of international politics. There's no shortage of systems in international politics. But what is in shortage turns out systems of fairness, rationality and effectiveness. The U.N. needs to better its laws, systems and implementations of financial sanctions. on the part of China, it actively participates in the design of the U.N. systems, assuming the responsibility and obligation as a great power. Meanwhile, through refining its integration, China is capable of adapting to the changes of international regulations within the U.N. system and influencing the formulation of regulations.

Third, firmly safeguarding core national interests. china resolutely pursues an independent foreign policy of peace, respecting the rights of various peoples to choose freely their own development and firmly safeguarding national interests. on such key issues as combating terrorism and coping with territorial disputes, China does not rule out the application of financial sanctions in addition to military and diplomatic policies. At the same time, never will China use third-party sanctions and honoring the principle of symmetry, try hard to avoid inflicting humanitarian disasters on innocent people.

Fourth, persisting in advancing domestic supportive reforms. On the one hand, China needs to quicken its economic restructuring, adjust international reserve structure, promote the internationalization of the renminbi and resist the risks of financial sanctions. on the other hand, China must strengthen the legislation and speed up the system design of domestic financial sanctions, aiming to provide domestic lawful and institutional guarantee for the implementation. Trying to obtain its voice and power of rule-making matching its diplomatic missions and comprehensive national power, China prepares necessary domestic systematic guarantee for the establishment of a new type of international relations and corresponding world order.

6. Conclusion

It has discovered in this article that under the premise of multilateralism, the implementation of international financial sanctions is rational in maintaining global order. but it can't be ignored that such western powers as the U.S. launch third-party sanctions despite of the opposition of international community, demonstrating hegemonism and power politics in their foreign policy. Given this discovery, China, on the one hand, needs to guard against the risks of financial sanctions imposed by other countries. On the other hand, in the new era of building a community of shared future for mankind and a new type of international relations, China must actively practice such concepts as mutual respect, fairness and justice, and win-win cooperation as well as corresponding norms of international relations, while approaching the center of the international stage and becoming ever stronger. in the implementation of financial sanctions, China must adhere to the principles of multilateralism, fairness and justice, firmly safeguard core national interests and persist in advancing domestic supportive reforms, all for the purpose of providing necessary systematic guarantee for the establishment of a new type of international relations and corresponding world order.

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