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Opinion – Deciphering China’s Uncomfortable Sanctions Discourses

Written by Rishika Chauhan and Sarah Tzinieris

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Opinion – Deciphering China’s Uncomfortable Sanctions Discourses

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RISHIKA CHAUHAN AND SARAH TZINIERIS, APR 7 2024

In March, China’s Special Representative on Eurasian Affairs criticized European Union (EU) sanctions against Chinese enterprises, calling on the bloc to “return to the right track” and cancel the measures. A few months earlier, adopting a brusque approach to similar American sanctions on Chinese entities, Beijing’s Foreign Ministry spokesperson called the use of sanctions “illegal”. However, on that instance the condemnation was accompanied by action, as Beijing decided to adopt an equivalent tool of economic statecraft against US-based defense companies by invoking its newly-enacted Anti-Foreign Sanctions Law (AFSL). Referring to Western sanctions as wrong, or a violation of China’s rights and interests but to its own as simply “countermeasures”, Beijing attempted to simultaneously highlight the impropriety of Western sanctions while justifying its own.

As a long-term target of sanctions but, more recently, acquiring the economic leverage to be able to impose them on other states, China has a unique perceptive on sanctions. Despite vociferously campaigning for decades against the West’s imposition of unilateral sanctions, China has since performed a complete volte-face by developing its own formal sanctions regime. Since 2018, Beijing has enacted no fewer than nine legislative sanctions provisions, giving it serious firepower to employ tools of economic warfare commensurate with its status as an emerging superpower.

Yet this does not tell the whole story. While Beijing’s new formalized sanctions regime is a momentous development, and one that raises normative questions about the conduct of orderly affairs in a world where multiple states might practise economic coercion, there exists a broader hinterland of Chinese sanctions. In fact, China has practiced economic statecraft throughout its modern history, albeit such measures are largely taken on an informal basis to confer plausible deniability. And yet by continuing to maintain its anti-sanctions rhetoric China is being reticent at best and nefarious at worst about its sanctions policy. In view of the potential of the Chinese economy to impact the flows of global trade, Beijing’s decision to develop a comprehensive sanctions regime deserves closer attention. In particular it is instructional to decipher how China is presenting this formalized approach given its obvious discomfort with sanctions.

When sanctions are viewed through the broad lens of coercive diplomacy, as coined by Thomas Schelling, it is clear that Beijing is already in possession of a highly-developed toolkit of economic statecraft, which it has historically wielded in an unofficial capacity. A still defining feature of the Chinese approach to sanctions is informality, with economic measures designed to hurt yet be flexible and, most importantly, be credibly disavowed. A well-known example is how China used informal sanctions against South Korea in 2016 to prevent Seoul’s acquisition of a THAAD missile defense system; in the ensuing dispute, China closed Korean retail stores and stymied Korean travel yet was able to deny any disruption had occurred and attributed the economic damage inflicted on South Korea to the spontaneous reaction of the Chinese public.

With a comprehensive legal framework now in place, China is fast emerging as a major actor in a new global sanctions race. Trump’s initiation of the China-US trade war in 2018 was primarily the trigger for formalization, although it was part of a broader streamlining of China’s legal and regulatory framework. Beijing’s new sanctions framework is not the product of any single unifying legal instrument but rather a patchwork of provisions that together form an overarching sanctions and retaliatory regime. Most significant in scope is the AFSL, enacted in 2021. Under

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its terms, Beijing can impose proactive as well as retaliatory sanctions. Hence the provisions not only authorize action in response to foreign sanctions, but also permit adoption of coercive economic measures that might enable Beijing to pursue broader interests. Besides the AFSL, other important legal provisions include the Unreliable Entity List, Foreign Trade Law, and the Chinese Blocking Statute.

Despite now having an almost equivalent suite of sanctions tools as Washington, Beijing has been surprisingly cautious in implementing measures. Its main target for formalized action has been foreign entities suspected of selling arms to Taiwan. On a basic level, China has developed a sanctions regime for the same reasons other states have done; it is a relatively low-risk, low-cost way to prevent unwanted action – and also may deter unwanted behaviors in the first place. China’s existential fears of encirclement and alienation shape its “core” national interests, namely maintaining power for the Chinese Communist Party (CCP), defending sovereignty claims, maintaining territorial integrity, and pursuing economic development. The expansion of Chinese interests in the South China Sea may make its sanctions use more frequent and aggressive, especially with the US working with partners to contain China. Nevertheless, Beijing is yet to develop the institutional structures for enforcing any future sanctions programmes so this may yet put the brakes on.

A tough sanctions regime not only communicates status and prestige for China on the world stage but also helps placate domestic interest groups by signalling Beijing will not tolerate undue influence from external actors. However, the formalization of China’s sanctions regime after decades of anti-sanctions rhetoric is an explicit policy reversal that requires careful repackaging to domestic constituencies. China has emphasized that its actions are an appropriate response given the nature of unilateral sanctions imposed by the US. According to Beijing, they are measures designed to interfere with China’s internal affairs and attempts to use long-arm jurisdiction – violating international law and even tarnishing China’s “image”. Hence, a retaliatory action is considered an apt response.

One of the measures that Beijing has applied to appease domestic constituents and justify the volte-face is by distinguishing its sanctions from those of the West, and naming them differently. In particular, China has referred to them as “counter” or “anti” foreign sanctions. The understanding of the term “counter” is rather loose in the Chinese context. Countermeasures do not only entail directly reacting to sanctions imposed against Chinese entities but can also be initiated against other states and entities whose policies and actions are detrimental to Beijing’s interests. As such, China’s countermeasures are identical to any unilateral sanctions imposed by Western states, that Beijing has opposed individually or as a part of international groups like BRICS. Beijing’s recasting of the narrative on sanctions appears to be making inroads among the Chinese public. While in the 1990s its sanction discourse emphasized Beijing’s ability to “withstand sanctions”, the new conversation has focused on warning sanctioning states that if they fail to “change course”, Beijing’s response would be “in kind”. The promulgation of sanctions laws at a time when the US and China remain embroiled in a trade war has given the domestic constituencies newfound confidence in the CCP, which is helpful in view of the economic slowdown and growing social unrest.

Although China is acutely aware of the power it is acquiring through a formalized sanctions regime, the rising superpower is proceeding with caution. Amid US-China strategic competition, with particular challenges from the US in areas like semiconductors, critical minerals and manufacturing, Beijing cannot afford to stymie its economic progress by utilizing sanctions recklessly. Sanctions can aid China in rising peacefully, but for the most part this stems from their deterrence value. By utilizing sanctions to secure its core interests instead of costly means like war, China can maintain economic prosperity while signalling status and prestige.

In fact, despite the development of a formal legislative framework, Beijing can be expected to pursue informal tactics for the most part while taking formal action only for high-priority national security reasons. Informal sanctions underpinned by plausible deniability can help China to retain its image as an ostensibly pacifist state among its small neighbours, whose support Beijing seeks in regional projects like Belt and Road Initiative. For scholars of sanctions, China is a remarkable case study of a rising power utilizing sanctions to project global influence. The way it continues to recalibrate its sanctions discourse is also valuable. While Chinese sanctions might be named differently to distinguish them from their Western equivalents, a sanction by any other name would hurt just the same.

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