

ARTICLE

**PERFORMATIVE ECONOMIC SANCTIONS:
HOW SANCTIONS WORK WITHOUT ECONOMIC HARM**

*Katniss Xuejiao Li**

ABSTRACT

This Article proposes and develops a concept of performative economic sanctions, challenging the traditional notion that sanctions must inflict economic harm to be effective. It examines the sanctions practices of China and Russia, unveiling a strategic approach that is different from the conventional model of coercive sanctions. Unlike typical sanctions which aimed at economic harm on the targets, performative sanctions leverage rhetoric that appeals to nationalist sentiments, alongside a discrepancy between laws as written and their enforcement. Through an in-depth analysis of publicly available sanctions measures in these two authoritarian regimes, this Article reveals that, although these measures may appear threatening on paper, the actual economic impact of the sanctions is often minimal. This strategic approach allows both states to signal their opposition to Western sanctions and influence the actions of multinational companies, all while minimizing economic repercussions for both the imposers of the sanctions and their targets.

The analysis reveals that both China and Russia have legislated (anti)sanctions laws with coercive potential, such as asset freezes; however, the actual enforcement of these laws does not result in substantial economic harm to their targets. This observation raises questions about the effectiveness of sanctions as purely economic tools and introduces the concept of performative sanctions. These sanctions serve to project a strong stance against external pressures and communicate with domestic audiences, utilizing the discrepancy between the harsh language of laws and their lenient enforcement to create a narrative of national resilience and defiance.

* S.J.D. candidate at Harvard Law School. I thank Mark Wu for his supervision, support, and comments, William P. Alford for his support, comments, and review on this paper, and Christina Davis for her comments and review. I am grateful for Jane Bestor, Sannoy Das, Lawrence Haozhou Gu, Liyu Han, Eleftheria Papadaki, and Ying Zhu for their comments on the draft. I also thank the attendees of the Junior International Law Scholars Association Annual Meeting (Haley Anderson, Anja Bossow, Cody Corliss, Joyce De Coninck, Mailyn Fidler, Desiree LeClercq, Asaf Lubin, Preston Lim, Daniel Mandell, Brian Richardson, Alveena Shah, Daimeon Shanks, Melissa Stewart, Omar Yousef Shehabi), my colleagues in the International Trade, Sanctions and/or Economic Statecraft writing group at Harvard Law School (Patrick Byxbee, Aleksandar Jevtic, Trevor Jones, and Monica Wang), the attendees of Cambridge China Politics Research Workshop, the attendees of the 81th Annual Midwest Political Science Association Conference, and the attendees of the 8th Stanford Law and Society Conference for Junior Researchers for reading and commenting on an early draft of this article. Harvard Law School research librarian Catherine Biondo has offered great research advice. Editors of the Harvard National Security Journal have provided enormous help with polishing this paper. Some ideas of this paper are inspired by my work experience at Fangda Partners, which I am grateful for. The views set out in this piece are the personal responsibility of me and do not reflect the views of any organization I belonged to. All errors are mine.

Furthermore, the Article argues that performative sanctions allow China and Russia to navigate two potential challenges when projecting defiance against Western sanctions: maintaining multinational companies within their economies and upholding the principle of non-intervention. This approach suggests a strategic use of sanctions that avoids direct economic repercussions, thus offering new perspectives for countries in weaker global economic positions or those adhering to non-intervention principles. Finally, the exploration of performative sanctions in this paper is not limited to authoritarian states or those in less favorable positions in the global supply chain. It also hints at similar practices in liberal democracies with strong economies, such as the United States, where there is a discrepancy between stringent policies and their actual enforcement. This paper sets the stage for further research into how states across different political and economic landscapes strategically employ performative sanctions, expanding our understanding of economic statecraft in the contemporary global order.

CONTENTS

INTRODUCTION	328
I. PREDOMINANT VIEWS: COERCION IN ECONOMIC SANCTIONS.....	332
A. <i>Coercion: The Legal Narratives of Economic Sanctions</i>	333
B. <i>The Theory Underlying Coercion and Its Academic Implications</i>	337
C. <i>The Development of Coercion Theory and Its Limitations</i>	339
II. “COERCIVE” ON PAPER: SANCTIONS LAWS IN CHINA AND RUSSIA.....	341
A. <i>Research Methodology and Overview of China’s and Russia’s</i> <i>(Anti)sanctions Laws</i>	341
B. <i>China’s (Anti)sanctions Laws</i>	343
C. <i>Russia’s (Anti)sanctions Laws</i>	346
D. <i>Coercive Feature of China’s and Russia’s (Anti)sanctions Laws</i>	348
III. “NON-COERCIVE” IN NATURE: SANCTIONS ENFORCEMENT IN CHINA AND RUSSIA.....	349
A. <i>Research Methodology and Overview of China’s and Russia’s</i> <i>Practices</i>	349
B. <i>China: Sanction Entities with Limited Chinese Business for Multiple</i> <i>Times</i>	350
C. <i>Russia: Tell Companies to Stay and Foreign Officials to Go Away</i> ..	354
D. <i>Non-Coercive Nature of China’s and Russia’s (Anti)sanctions</i> <i>Enforcement</i>	358
IV. ALTERNATIVE DIMENSION: PERFORMATIVE ECONOMIC SANCTIONS.....	361
A. <i>Drawing on the Performative Legitimacy Theory and Analyzing Its</i> <i>Limitations</i>	361
B. <i>Performative Economic Sanctions—What They Are</i>	362
C. <i>Performative Economic Sanctions—How They Work</i>	365
CONCLUSION.....	369

INTRODUCTION

Why do states and international institutions impose unilateral economic sanctions (“sanctions”)? Scholars predominantly argue that sanctions serve to inflict economic harm in order to change targets’ behavior and promote

normative values.¹ Based on rational choice theory, they posit that *rational* states will change their policies if the costs of sanctions outweigh the benefits of policies.² However, over the years, states subject to sanctions, such as Cuba, North Korea, Russia, and China, have not modified their policies nearly as much as sanctions imposers would expect.³ Many scholars, therefore, argue that sanctions have failed.⁴ Nonetheless, states like the United States still impose sanctions actively, and China⁵ and Russia⁶ recently legislated new regulations to authorize sanctions. If sanctions fail, why do states still apply them?

Amidst the dominant discourse on coercion-based sanctions, other scholars highlight the role of sanctions as a signaling mechanism, through which states demonstrate their resolves to both international and domestic audiences.⁷

¹ Daniel W. Drezner, *Global Economic Sanctions*, 27 ANN. REV. POL. SCI. 1, 3 (2024) (“Over the past few decades, sanctions scholarship has made its greatest strides in investigating the effects and effectiveness of economic coercion attempts.”). See, e.g., ROBERT D. BLACKWILL & JENNIFER M. HARRIS, WAR BY OTHER MEANS: GEOECONOMICS AND STATECRAFT 58–59 (2016); GARY CLYDE HUFBAUER, JEFFERY J. SCHOTT, KIMBERLY ANN ELLIOTT & BARBARA OEGG, ECONOMIC SANCTIONS RECONSIDERED 9–18 (2009); NICHOLAS MULDER, THE ECONOMIC WEAPON: THE RISE OF SANCTIONS AS A TOOL OF MODERN WAR 6 (2022); James Mayall, *The Sanctions Problem in International Economic Relations: Reflections in the Light of Recent Experience*, 60 INT’L AFF. 631, 634–38 (1984); W. Michael Reisman, *Assessing the Lawfulness of Nonmilitary Enforcement: The Case of Economic Sanctions*, 89 AM. SOC’Y INT’L PROC. 350, 351–52, 355 (1995); W. Michael Reisman, *Sanctions and Enforcement*, in 3 RICHARD A. FALK & CYRIL E. BLACK, THE FUTURE OF THE INTERNATIONAL LEGAL ORDER: CONFLICT MANAGEMENT 279, 303–04 (2019); Daniel W. Drezner, *The Complex Causation of Sanction Outcomes*, in SANCTIONS AS ECONOMIC STATECRAFT 212–13 (Steven Chan & A. Cooper Drury eds., 2000).

² See, e.g., Drezner, *supra* note 1, at 5; Nikolay Marinov, *Do Economic Sanctions Destabilize Country Leaders*, 49 AM. J. OF POL. SCI. 564, 566 (2005); MULDER, *supra* note 1, at 247–48.

³ See, e.g., BRYAN R. EARLY, EXPLAINING WHY ECONOMIC SANCTIONS FAIL (2015); Jok Madut Jok, *Economic Sanctions Are Not an Effective Instrument for Political Pressure*, WILSON CTR. (Feb. 2020), <https://www.wilsoncenter.org/publication/economic-sanctions-are-not-effective-instrument-political-pressure> [<https://perma.cc/AN47-2XVD>].

⁴ *Id.*

⁵ Zhonghua Renmin Gongheguo Fan Waiguo Zhicai Fa (中华人民共和国反外国制裁法) [Anti-Foreign Sanctions Law] (promulgated by the Standing Comm. Nat’l People’s Cong., June 10, 2021, effective June 10, 2021), ZHONGGUO RENDA WANG (中国人大网) [China National Congress],

<http://www.npc.gov.cn/npc/c30834/202106/d4a714d5813c4ad2ac54a5f0f78a5270.shtml> [<https://perma.cc/X9VG-F7V4>] (China).

⁶ Government Decisions, Measures to Implement Presidential Executive Order on Special Economic Measures in Connection with Ukraine’s Unfriendly Actions towards Citizens and Legal Entities of the Russian Federation, THE RUSSIAN GOVERNMENT (Nov. 1, 2018, 11:00), <http://government.ru/en/docs/34529/> [<https://perma.cc/6C5M-WPT8>]; Postanovleniye Pravitel’stva Rossiyskoy Federatsii ot 25.12.2018 g. № 1656 [Decree of the Government of the Russian Federation of December 25, 2018 No. 1656], THE RUSSIAN GOVERNMENT, Dec. 25, 2018, No. 1656, <http://government.ru/docs/all/120233/> [<https://perma.cc/3QHN-MUQZ>]; News, Ob Otvetnom rossiyskom Spiske Predstaviteley Stran-chlenov YES i Yevroinstitutov, Kotorym Zapreshchen V’yezd na Territoriyu Rossiyskoy Federatsii [On the Response to the Russian List of Representatives of EU Member States and European Institutions Prohibited from Entering the Territory of the Russian Federation], MINISTERSTVO INOSTRANNYKH DEL ROSSIYSKOY FEDERATSII [Ministry of Foreign Affairs Of the Russian Federation] (Jan. 28, 2022, 19:10), https://www.mid.ru/foreign_policy/news/1796301/ [<https://perma.cc/FG53-JPQT>] (Russ.).

⁷ See generally Johan Galtung, *On the Effects of International Economic Sanctions, with*

This signaling operates on two levels: international and domestic. Internationally, sanctions serve as a declaration of the imposer's disapproval of the target's actions. When coordinated with allies, these sanctions further emphasize a united front, bolstering the collective stance against undesirable behaviors. Domestically, sanctions can be implemented symbolically to appease political pressures demanding action in response to the target's conduct. The underlying principle remains consistent across both audiences: by willingly enduring economic sacrifices, leaders can project a strong commitment to specific normative values.⁸ As the discourse on sanctions has evolved, proponents of the traditional coercive theory have explored strategies to enhance sanctions' effectiveness by inflicting more precise economic damage on targets.⁹ Concurrently, scholars focusing on the signaling aspect of sanctions have examined how the economic costs incurred can legitimize the imposers' messages, showcasing a willingness to forgo economic benefits in defense of these values.¹⁰ This debate essentially revolves around the belief in the effectiveness of sanctions predicated on economic harm, whether for coercion or signaling. The crux of the discussion then becomes how to strategically manage this harm to fulfill the intended objectives.

Instead of joining the debate, this paper extends the debate by challenging the premise upon which the discussion is founded. This paper seeks to shift the traditional debate on sanctions by introducing the concept of *performative sanctions*. It suggests moving the discussion away from the economic impact of sanctions towards their performative value and proposing that sanctions can lack economic damage yet effectively convey the sanctioning countries' normative values. Through a thorough analysis of (anti)sanctions¹¹ practices in two authoritarian regimes, China and Russia, the study examines all publicly available sanctions measures, revealing that while these measures may pose a threat on paper, the actual economic harm caused by sanctions measures is limited. This investigation leverages the idea of performative legitimacy, a term often

Examples from the Case of Rhodesia, 19 *WORLD POL.* 378, 378–416 (1967); DAVID A. BALDWIN, *ECONOMIC STATECRAFT* (1985) (reprinted in 2020); James M. Lindsay, *Trade Sanctions as Policy Instruments: A Re-examination*, 30 *INT'L STUD. Q.* 153 (1986); Kim Richard Nossal, *International Sanctions as International Punishment*, 43 *INT'L ORG.* 301 (1989); Michael Mastanduno, *Economics and Security in Statecraft and Scholarship*, 52 *INT'L ORG.* 825 (1998); Taehee Wang, *Playing to the Home Crowd? Symbolic Use of Economic Sanctions in the United States*, 55 *INT'L STUD. Q.* 787 (2011); Francesco Giumelli, *The Purposes of Targeted Sanctions*, in *TARGETED SANCTIONS: THE IMPACT AND EFFECTIVENESS OF UNITED NATIONS ACTION 38* (Thomas J. Biersteker, Sue E. Eckert, Marcos Tourinho, eds., 2016).

⁸ See, e.g., BALDWIN, *supra* note 7, at 388–89; Galtung, *supra* note 7, at 411–12; LISA L. MARTIN, *COERCIVE COOPERATION: EXPLAINING MULTILATERAL ECONOMIC SANCTIONS* 96–97 (1992).

⁹ See, e.g., Joy Gordon, *Smart Sanctions Revisited*, 25 *ETHICS & INT'L AFF.* 315–35 (2011).

¹⁰ BALDWIN, *supra* note 7; Galtung, *supra* note 7; MARTIN, *supra* note 8.

¹¹ Anti-Foreign Sanctions Law, *supra* note 5; Russia has promulgated O Merakh Vozdeystviya (Protivodeystviya) na Nedruzhestvennyye Deystviya Soyedinennykh Shtatov Ameriki i Inykh Inostrannykh Gosudarstv [On Measures (Countermeasures) in Response to Unfriendly Actions of the United States and Other Foreign States], Federal'nyy Zakon [Federal Law], Apr. 6, 2018, No. 127-FZ, <http://www.kremlin.ru/acts/bank/43117> [<https://perma.cc/YEW5-66EE>] (Russ.). I referred the above-mentioned laws as (anti)sanctions laws of China and Russia, and the law enforcement related to the laws as (anti)sanctions enforcement measures. As I will explain in the Article, these (anti)sanctions laws share notable similarities with the sanctions laws seen, for instance, in the United States.

discussed in sociology¹² and later in environment law domain,¹³ to define and explore the mechanics behind performative sanctions. In the realm of performative legitimacy, the essence lies in the act of showing: sociologist Erving Goffman drew parallels between everyday social interactions and theatrical performances, suggesting that individuals, when in the presence of others, strive to “present themselves” in a manner most favorable to their images.¹⁴ Building on this conceptual foundation, Alex Wang¹⁵ and Iza Ding¹⁶ introduced the notion of symbolic governance within the context of China’s environmental regulation. This approach enables *show* of effective governance in environmental protection, despite the absence of substantial outcomes.¹⁷

Inspired by the performative legitimacy,¹⁸ this paper proposes an alternative perspective on economic statecraft, focusing on the operational aspects of performative sanctions. This paper is not focused on comparing the effectiveness of different sanctions regimes or judging their compliance with international law. Instead, it shows how sanctions can fulfill their intended goal of expressing a nation’s normative values without economic harm. This paper draws inspiration from the concept of performative legitimacy in law, extensively discussed in the context of environmental protection regulation but scarcely addressed in relation to sanctions. A notable aspect of this paper is its effort to bring legal frameworks into the discussion on sanctions, pointing out how the discrepancy between law on paper and law in action (law enforcement) can reflect the sanctions imposers’ normative intentions. This approach seeks to bridge the gap between legal studies, which often assess the legality of sanctions, and international relations research, which focuses on the effectiveness of sanctions. This paper thus suggests that the legal structure and enforcement of sanctions can strategically function as an integral part of a sanctions policy.

In terms of its scope, this paper focuses on negative sanctions that are generally designed to punish. Synthesizing the definition¹⁹ of economic

¹² ERVING GOFFMAN, *THE PRESENTATION OF SELF IN EVERYDAY LIFE* 5 (1959).

¹³ See, e.g., Alex L. Wang, *Symbolic Legitimacy and Chinese Environmental Reform*, 48 *ENV’T L.* 699 (2018); IZA DING, *THE PERFORMATIVE STATE: PUBLIC SCRUTINY AND ENVIRONMENTAL GOVERNANCE IN CHINA* (2022).

¹⁴ Cf. GOFFMAN, *supra* note 12 (concept of self-presentation).

¹⁵ Wang, *supra* note 13.

¹⁶ DING, *supra* note 13.

¹⁷ Wang, *supra* note 13, at 726.

¹⁸ Ding, *supra* note 14, at 11–13.

¹⁹ There are no agreed definitions of economic sanctions among scholars. As Professor Francesco Giumelli puts, “finding a balance between extensity and intensity for this concept [of economic sanction] appears to be quite complicated. Similar to the concept of ‘terrorism’, for which over one hundred definitions have been identified.” See FRANCESCO GIUMELLI, *COERCING, CONSTRAINING, AND SIGNALING – EXPLAINING UN AND EU SANCTIONS AFTER THE COLD WAR* 15 (2011); Professor Alena Douhan, the U.N. Special Rapporteur on the negative impact of the unilateral coercive measures, also noted that “it is notable that today there is no clear definition even of the general notion of ‘sanctions’ in international law.” Special Rapporteur on the Negative Impact of Unilateral Coercive Measures on the Enjoyment of Human Rights, *Unilateral Coercive Measures: Notion, Types, and Qualification*, U.N. Doc.A/HRC/48/59, 5 (2021).

sanctions in law,²⁰ political science,²¹ and history studies,²² I refer to economic sanctions as economic measures to promote or achieve normative values. Political scientists have discussed two types of sanctions: positive sanctions that tie to rewards²³ and negative sanctions that linked to threats and economic restrictions and exclusions.²⁴ In this paper, my primary intervention is to question the emphasis on economic harm that is commonly associated with negative sanctions. Therefore, the analysis will be specifically concentrated on negative sanctions.

I conduct my analysis in four steps. First, I revisit the jurisprudence, legal history, and theoretical basis of economic sanctions to show how coercion has become the mainstream narrative. Further, I demonstrate that in the development of scholarly discussions on sanctions within political science, the focus on signaling and symbolic sanctions still emphasizes the economic harm aspect of sanctions. Second, I identify that China's and Russia's laws match the coercive narrative of economic sanctions after closely examining the sanctions measures stipulated in their (anti)sanctions laws. Third, I reveal that China's and Russia's (anti)sanctions enforcement patterns do not match the economic harm model but have revealed a performative dimension. Finally, based on my empirical research, I formulate my theory of performative economic sanctions by explaining what they are and how they work in authoritarian states. As a concluding remark, I show how the identification of performative economic sanctions may switch the focus of academic discussions of economic sanctions. Hopefully, this paper can set the stage for further research into how states across different political and economic landscapes strategically employ performative sanctions, expanding our understanding of economic statecraft in the contemporary global order.

I. PREDOMINANT VIEWS: COERCION IN ECONOMIC SANCTIONS

In the field of sanctions research, scholars and practitioners have predominately described sanctions as a form of “economic coercion,”²⁵ influencing

²⁰ Michael Reisman defined sanction as “techniques and strategies to support public order [t]hrough corrective, deterrent, rehabilitative, and reconstructive strategies.” See Reisman, *supra* note 1. “In the international legal doctrine, sanctions have been viewed as, inter alia, a power (possibility) to ensure the law, a punishment, a complex of enforcement measures applied to a delinquent State, a method to make someone comply, the negative consequence of a violation, measures to protect the international legal order, measures not involving the use of armed force to maintain or restore international peace and security, means of implementation of international responsibility, and countermeasures or retorsions.” See Special Rapporteur, *supra* note 19.

²¹ David A. Baldwin defined sanctions as “the use of economic measures directed to political objective.” BALDWIN, *supra* note 7, at 120.

²² Professor Nicholas Mulder defined “economic sanctions” as “to use material exclusion from the world economy to protect international norms.” This definition much connects with the legal histories of economic sanctions in the establishment of international legal institutions. See MULDER, *supra* note 1, at 14.

²³ David Baldwin, *The Power of Positive Sanctions*, 24 WORLD POL. 23 (1971).

²⁴ BALDWIN, *supra* note 7, at 39–42.

²⁵ See, e.g., Reisman, *supra* note 1, at 327, 330–32; ROBERT D. BLACKWILL & JENNIFER M. HARRIS, WAR BY OTHER MEANS: GEOECONOMICS AND STATECRAFT 58–59 (2016); MULDER, *supra* note 1, at 14, 276, 292.

the legal frameworks for international sanctions authorized by the U.N. Security Council and unilateral sanctions enacted by states without the Council's endorsement. These legal frameworks are steeped in the principles of cost-benefit analysis within international relations, positing that policymakers target entities that are likely to be highly sensitive to economic pressures: the premise is that sanctions would compel these entities to alter their behavior if the financial distress inflicted on them surpasses the perceived benefits of continuing their behavior.²⁶ Building on the foundational logic of economic costs, scholars have conceptualized two additional perspectives on sanctions that are different from the dominant coercion narrative: constraining sanctions and signaling sanctions.²⁷ These approaches leverage economic harm to either limit a target's ability to pursue certain policies or to demonstrate a commitment to normative values through a readiness to endure economic hardship. Through the development of sanctions theories, they have pinpointed one key feature of sanctions: to achieve sanctions imposers' objectives through economic harm.

A. Coercion: The Legal Narratives of Economic Sanctions

The coercion jurisprudence, under which states defend normative values by inflicting economic harm on other states, seems to dominate the legal framework of sanctions. International sanctions authorized by the U.N. also reveal coercive characteristics. The U.N. Security Council can authorize international sanctions to constrain terrorism and protect human rights, with the goal of maintaining international peace and security.²⁸ For unilateral sanctions, the United States often adopts sanctions as foreign policy tools to substitute for military coercion.²⁹ Other jurisdictions, such as the European Union (E.U.)³⁰ and Canada,³¹ also impose sanctions to discipline the behavior of target states deemed to be contrary to their normative commitments.³²

In the design of the mechanism of international institutions, the adoption of sanctions authorized by the U.N. Security Council has emerged as a tool to discipline state behavior and to maintain international peace and security. Following the severe losses of World War II, sovereign states recognized the

²⁶ Drezner, *supra* note 1, at 5; Marinov, *supra* note 1, at 566; MULDER, *supra* note 1, at 247–48.

²⁷ Mastanduno, *supra* note 7, at 825–54; Wang, *supra* note 7, at 788; Giumelli, *supra* note 7, at 39–40.

²⁸ U.N. SEC. COUNCIL, Sanctions, <https://www.un.org/securitycouncil/sanctions/information> [<https://perma.cc/JV8G-DPZ8>].

²⁹ See generally BLACKWILL & HARRIS, *supra* note 23, at 1–19 (describing U.S. use of geoeconomics); MULDER, *supra* note 1, at 88–111.

³⁰ Strategic Communications, *European Union Sanctions*, EUROPEAN UNION EXTERNAL ACTION (Oct. 7, 2021), https://www.eeas.europa.eu/eeas/european-union-sanctions_en [<https://perma.cc/B6PS-5XWG>].

³¹ GOV'T OF CANADA, *Canadian Sanctions*, https://www.international.gc.ca/world-monde/international_relations-relations_internationales/sanctions/index.aspx?lang=eng [<https://perma.cc/PKH9-9VF4>].

³² See, e.g., EU SANCTIONS MAP, <https://www.sanctionsmap.eu/#/main> [<https://perma.cc/6MQ8-K3UY>] (last visited May 6, 2024); *Current Sanctions Imposed by Canada*, GOV'T OF CANADA, https://www.international.gc.ca/world-monde/international_relations-relations_internationales/sanctions/current-actuelles.aspx?lang=eng [<https://perma.cc/ZMA7-TZ9Z>] (last visited May 6, 2024).

devastating impact of military conflicts. Consequently, in the formation of the U.N. Chapters, they agreed to largely prohibit the use of force, except in a few restricted circumstances. This prohibition is enshrined in Article 2 of the U.N. Charter, which mandates that “[a]ll members shall refrain from the threat or use of force against the territory integrity or political independence of any state,”³³ except in limited circumstances of individual or collective self-defense when international peace and security are threatened.³⁴ The U.N. Security Council retains the authority to decide when to initiate sanctions and call upon U.N. members to apply these sanctions in response to threats to peace, breaches of peace, or acts of aggression, with the goal of restoring international stability. Since sanctions, which disrupt economic relations, are perceived by some to cause less immediate harm compared to the human casualties of military conflicts, they are increasingly seen as a more viable method for addressing the violations of international peace and security. Sanctions, serving as a strategic instrument, have also been employed to encourage states that initiate armed conflicts to halt their military actions. In application, the U.N. aims to apply sanctions to curtail terrorist activities, deter unconstitutional changes in governance, promote the protection of human rights, and prevent the violations of non-proliferation agreements.³⁵ Historically, the U.N. Security Council has authorized sanctions against nations such as Iran, North Korea, and Libya,³⁶ citing their actions as threats to international security.

The primary rationale behind the institutional design of coercive sanctions, which aims to restore global order, aligns with the postwar scholarly discourse. In the aftermath of World War II, the emergence of the New Haven School brought forth the conceptualization of sanctions as a tool for upholding “world public order.”³⁷ Scholars in the New Haven School, such as Myres McDougal and Michael Reisman, who articulated the goal of international law as fostering a “public order of human dignity,”³⁸ wrote about the idea of “world public order.” Reisman argues that sanctions are necessary to preserve the “world public order” by penalizing actors who disrupt that order.³⁹ This concept of sanctions draws inspiration from the traditional legal theory which views law as the instrument for shaping behavior. Implying that sanctions served to punish and rectify, Reisman references legal theorists like Austin, who deemed sanctions as “the evil which would probably be incurred in case a command be

³³ U.N. Charter art. 2.

³⁴ U.N. Charter arts. 39, 41.

³⁵ United Nations Security Council, *supra* note 28.

³⁶ *Sanctions*, U.N. SECURITY COUNCIL, <https://www.un.org/securitycouncil/sanctions/information> [<https://perma.cc/XW8J-CT52>] (last visited May 6, 2024).

³⁷ *See, e.g.*, Myres S. McDougal, Harold D. Lasswell, & W. Michael Reisman, *The World Constitutive Process of Authoritarian Decision*, in 1 THE FUTURE OF THE INTERNATIONAL LEGAL ORDER: TRENDS AND PATTERNS 73, 119, 132, 139 (Richard A. Falk & Cyril E. Black, eds., 2015); Reisman, *supra* note 1, at 275; For a brief history of New Haven School, please see Fozia Lone, THE NEW HAVEN SCHOOL OF INTERNATIONAL LAW, OXFORD BIBLIOGRAPHIES (updated Mar. 27, 2019), <https://www.oxfordbibliographies.com/display/document/obo-9780199796953/obo-9780199796953-0178.xml> [<https://perma.cc/U99X-EFT6>].

³⁸ *See* W. Michael Reisman, *Theory about Law: Jurisprudence for a Free Society*, 108 YALE L.J. 935, 937 (1999).

³⁹ Reisman, *supra* note 1, at 282–84.

disobeyed,”⁴⁰ and Kelsen, who deemed that sanctions are imposed for disciplining “delictual behavior.”⁴¹ In summary, sanctions function as a coercive mechanism to alter the conduct of those who breach the established order and to compel compliance with the norms and requirements of that order.⁴²

Besides sanctions authorized by the U.N. Security Council, states, such as the United States, have applied unilateral sanctions as coercive measures to achieve policy goals. Among the states that have been imposing unilateral sanctions, the United States is one of the most active sanctions imposers⁴³ because it deems sanctions as an essential tool for achieving foreign policy goals and practical substitute for military coercion.⁴⁴ Over the years, the United States has adopted sanctions programs targeting a number of countries, regions, and entities and now has thirty-eight sanctions programs in effect.⁴⁵ After World War I, the U.S. government, among other Western countries, realized the benefits of economic coercion and innovatively deployed sanctions as substitutes for military powers.⁴⁶ In 1917, U.S. President Woodrow Wilson proposed sanctions as a general alternative to war.⁴⁷ A strong believer in “a nation that is boycotted is a nation that is in sight of surrender,”⁴⁸ he signed the Trading with the Enemy Act of 1917,⁴⁹ which set the legal basis for the United States to impose sanctions. Other Western States, such as the British and French, also frequently used sanctions during World War I and World War II to deny economic benefits to enemy states, weaken their military powers, and force them to stop the war.⁵⁰ After World War II, supported by its military and dollar dominance, the United States has been actively imposing sanctions on other countries, such as Cuba, Iraq, and Iran, in the hope to change their domestic landscape or to advance U.S. foreign

⁴⁰ *Id.* at 273 n.2.

⁴¹ *See id.* at 274, 274 n. 3–4 (citing HANS KELSEN, *GENERAL THEORY OF LAW AND STATE* 50–51 (Anders Wedberg trans., 1961); HANS KELSEN, *PRINCIPLES OF INTERNATIONAL LAW* 13–17 (1952)).

⁴² *Id.* at 275–76.

⁴³ Jonathan Masters, *What Are Economic Sanctions?*, COUNCIL ON FOREIGN REL. (Aug. 12, 2019), <https://www.cfr.org/backgrounder/what-are-economic-sanctions> (“The United States uses economic and financial sanctions more than any other country.”). As of April 24, 2023, the United States maintains 38 sanctions programs. By saying “the United States is one of the most active sanctioning states,” I refer to official sanctions. I have not counted unofficial sanctions such as China’s informal sanctions against Australia. *See* Darren J. Lim & Victor A. Ferguson, *Informal Economic Sanctions: The Political Economy of Chinese Coercion During the THAAD Dispute*, 29 *REV. INT’L POL. ECON.* 1525, 1548 (2022).

⁴⁴ *See generally* BLACKWILL & HARRIS, *supra* note 25.

⁴⁵ *See generally* Office of Foreign Assets Control, Sanctions Programs and Country Information, U.S. DEP’T OF TREASURY, <https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information>, [<https://perma.cc/U783-SF7A>] (last visited April 24, 2023).

⁴⁶ MULDER, *supra* note 1, at 292.

⁴⁷ *Id.* at 70–75.

⁴⁸ Speaking in Indianapolis in 1919, President Wilson said: “A nation that is boycotted is a nation that is in sight of surrender. Apply this economic, peaceful, silent, deadly remedy and there will be no need for force. It is a terrible remedy. It does not cost a life outside the nation boycotted but it brings a pressure upon the nation, which, in my judgment, no modern nation could resist.” *See* WILSON’S IDEALS 108 (Saul K. Padover ed., 1942) (quoting Wilson).

⁴⁹ *See* Trading with the Enemy Act, 50a U.S.C. §§ 1–40 (1958).

⁵⁰ For a detailed historical overview, *see* MULDER, *supra* note 1, at 55–259.

policies.⁵¹ In 1977, the United States passed the International Emergency Economic Powers Act,⁵² another primary law that has authorized the use of sanctions. After the September 11 attacks, the United States increased sanctions to constrain states from supporting entities which the United States identified as terrorist groups. Through today, the United States continues to use sanctions actively. For example, it has recently passed various laws to support targeted sanctions, such as the Uyghur Forced Labor Prevention Act,⁵³ which stated that it seeks to compel China to change its policies surrounding Xinjiang.⁵⁴

The debate over unilateral sanctions highlights skepticism about the neutrality and legitimacy of the “world public order,” introducing an alternative perspective: sanctions are a means for economically powerful nations to exert their influence in shaping global governance. Some scholars have argued that, in practice, the “world public order” was selectively constructed in favor of U.S. policies,⁵⁵ allowing the United States to capitalize on sanctions in furtherance of its self-interests.⁵⁶ Furthermore, human rights advocates have raised concerns that sanctions often worsen global humanitarian crises.⁵⁷ Developing countries, wary of economic coercion by more powerful states, have sought but failed to challenge the legality of unilateral sanctions. For instance, Brazil endeavored to dispute the legitimacy of such sanctions. The 1970 Friendly Relations Declaration of the U.N. General Assembly states that “[n]o State *may* use or *encourage* the use of economic [m]easures to coerce another State.”⁵⁸ This statement subtly diminishes the obligatory nature of this legal requirement, implying that the U.N. Charter’s Article 2(4) primarily pertains to armed force.⁵⁹ This interpretation reinforces the narrative that economic coercion remains a viable tool in the arsenal of state economic strategies, provided that it does not escalate to military conflicts.

⁵¹ *Id.* at 20–41.

⁵² See International Emergency Economic Powers Act, Pub. L. 95-223, 91 Stat. 1626 (1977) (codified as amended at 50 U.S.C. §§1701 et seq.).

⁵³ See Uyghur Forced Labor Prevention Act, Pub. L. No. 116-283, 134 Stat. 1189 (2021).

⁵⁴ See Antony J. Blinken, *Implementation of the Uyghur Forced Labor Prevention Act*, U.S. DEP’T OF STATE (June 21, 2022), <https://www.state.gov/implementation-of-the-uyghur-forced-labor-prevention-act/> [<https://perma.cc/C3YA-UE8C>].

⁵⁵ Harold Hongju Koh, *Is There a “New” New Haven School of International Law?*, 32 YALE J. INT’L L. 559, 563 (2007) (citing Myres S. McDougal & W. Michael Reisman, *International Law in Policy-Oriented Perspective*, in THE STRUCTURE AND PROCESS OF INTERNATIONAL LAW: ESSAYS IN LEGAL PHILOSOPHY, DOCTRINE AND THEORY (Ronald St. J. MacDonald & Douglas Johnston eds., 1983)).

⁵⁶ Ugo Mattei, *A Theory of Imperial Law: A Study on U.S. Hegemony and the Latin Resistance*, 10 IND. J. GLOB. LEGAL STUD. 383 (2003).

⁵⁷ Gordon A. Christenson, *The Jurisprudence of Sanctions in International Law - The Power and Purpose of International Law: Insights from the Theory and Practice of Enforcement*, 31 HUM. RTS. Q. 1086 (2009).

⁵⁸ The Friendly Relations Declaration (UNGA Res 2625 (XXV) (24 October 1970) U.N. Doc A/RES/2625(XXV) reprinted in (1971) 65 AJIL 243).

⁵⁹ When determining the scope of the prohibition of the use of force, the international institutions seemed to interpret the Friendly Relations Declaration as implying a narrow understanding of “force.” See, e.g., *Military and Paramilitary Activities in and Against Nicaragua* (Nicar. v. U.S.), Judgment, 1986 I.C.J. Rep. 191 (June 27).

While the effectiveness of sanctions as a tool for upholding “world public order”⁶⁰—a key justification employed by the U.N. Security Council and individual states—continues to spark debate among scholars, the operational mechanics of sanctions are increasingly understood. Sanctions serve as a strategic means for sanctions imposers to coerce targets into altering their policies or actions. The legal grounding for such measures, including the U.N. Charter, the Trading with the Enemy Act of 1917, and the International Emergency Economic Powers Act, illustrates the commitment of sanctioning bodies to utilize these tools as a form of coercive pressure aimed at effecting change. In application, the implementation of sanctions demonstrates their utility in modifying recipient behavior, exemplified by the U.N.’s sanctions against North Korea to deter nuclear proliferation under the stated reasons of maintaining international security,⁶¹ and the United States’ sanctions against China, which the United States stated as a way of “promoting accountability” for alleged human rights issues in Xinjiang.⁶² This approach is fundamentally rooted in the cost-benefit analysis paradigm of international relations, positing that rational states are likely to adjust their behaviors if the economic disadvantages induced by sanctions surpass the perceived benefits of their existing policies.⁶³ Subsequent parts of this paper will delve into the theoretical foundation of coercion and examine its evolution in depth.

B. The Theory Underlying Coercion and Its Academic Implications

Political scientists have long analyzed sanctions through the lens of coercion, a perspective reinforced by Daniel Drezner’s review of the current landscape of sanctions scholarship,⁶⁴ which highlights coercion as the prevailing theoretical framework in current scholarship on sanctions. This theory is rooted in the “rational choice” paradigm, which posits that states, like individuals, engage in cost-benefit analyses to pursue their best interests.⁶⁵ Scholars including Albert Hirschman⁶⁶ and David Baldwin⁶⁷ have elaborated on how the withdrawal of economic benefits compels states to reconsider costly behaviors. In this framework, sanctions, understood as a specific form of trade disruption, emerge as a formidable tool of coercion.⁶⁸ Some scholars’ analysis further elucidates the mechanics of coercion by demonstrating how the adverse impacts of

⁶⁰ Reisman, *supra* note 1, at 275.

⁶¹ U.N. SEC. COUNCIL, *Security Council Committee Established Pursuant to Resolution 1718*, <https://www.un.org/securitycouncil/sanctions/1718> [<https://perma.cc/XEX6-DYV3>].

⁶² *E.g.*, Press Release, U.S. Dep’t of Treasury, *Treasury Sanctions Chinese Government Officials in Connection with Serious Human Rights Abuse in Xinjiang* (Mar. 21, 2023), <https://home.treasury.gov/news/press-releases/jy0070> [<https://perma.cc/MET3-BVTR>].

⁶³ *See* above-mentioned discussions on cost-benefit analysis, Part I.A; Drezner, *supra* note 1, at 5; Nikolay Marinov, *Do Economic Sanctions Destabilize Country Leaders*, 49 AM. J. OF POL. SCI. 564, 566 (2005); MULDER, *supra* note 1, at 247–48.

⁶⁴ *See generally* Drezner, *supra* note 1 (discussing evolution of literature on coercive effects of economic sanctions).

⁶⁵ Drezner, *supra* note 1, at 5; Nikolay Marinov, *Do Economic Sanctions Destabilize Country Leaders*, 49 AM. J. OF POL. SCI. 564, 566 (2005); MULDER, *supra* note 1, at 247–48.

⁶⁶ ALBERT HIRSCHMAN, NATIONAL POWER, AND STRUCTURE OF FOREIGN TRADE 17–34 (1945).

⁶⁷ BALDWIN, *supra* note 7.

⁶⁸ Hirschman has discussed the effect of trade disruption in his arguments of “influence effect.” *See* HIRSCHMAN, *supra* note 66, at 17–34.

trade disruptions compel the targeted states to alter their behavior. The rationale is that disrupting these critical sectors inflicts significant economic harm, thereby exerting substantial pressure on targeted states to modify their behavior to have the sanctions lifted and reduce the inflicted harm.⁶⁹ This strategic targeting underscores the coercive power of sanctions when applied judiciously, aiming to prompt behavioral changes by leveraging economic vulnerabilities.

Following the cost-benefit theory embedded in coercive sanctions, policy makers have shifted from comprehensive sanctions to “smart sanctions” that are designed to precisely aim at sanctions targets’ vulnerabilities while minimizing collateral damages.⁷⁰ This pivot, as some scholars have argued, acknowledges the ineffectiveness of comprehensive sanctions in achieving policy goals.⁷¹ These scholars have argued that Iran and North Korea, which have been under comprehensive sanctions, have not changed their policies much on nuclear development as sanctions imposers wished them to stop.⁷² Instead, they argued that comprehensive sanctions have caused human rights crisis, as the living standards of nationals within these countries have greatly declined because of the comprehensive sanctions. In response, scholars have proposed a calibrated cost-benefit analysis to address concerns about sanctions’ spillover effects and ineffectiveness. Their assessment led to the development of smart sanctions, which are designed to accurately hit the targets’ pain points, such as vital policy decision-makers or industrial sectors.⁷³ The implementation of smart sanctions has been actualized, with the United States pioneering this approach by imposing targeted sanctions on specific industries, individuals, and entities. These targeted sanctions are catalogued in the Specially Designated Nationals and Blocked Persons List.⁷⁴ This strategic focus aims to pinpoint and exploit the vulnerabilities within an adversary’s economy, thereby amplifying the coercive impact of these measures.

The debates on the coercive feature of sanctions have surrounded the following point: legal scholars discuss whether sanctions, as economic coercion, violate the non-intervention principle of international law. The non-intervention principle involves the right of every sovereign state to conduct its affairs without outside interference.⁷⁵ As sanctions would impose economic harm and thus may impede another state’s economic welfare due to the states’ decisions on internal policies, many would argue against the imposition of sanctions. Advocates for

⁶⁹ See, e.g., Daniel P. Ahn & Rodney D. Ludema, *The Sword and The Shield: The Economics of Targeted Sanctions*, EUR. ECON. REV., 1, 19 (2020).

⁷⁰ For a literature review on smart sanctions, see, e.g., Daniel W. Drezner, *Sanctions Sometimes Smart: Targeted Sanctions in Theory and Practice*, 13 INT’L STUD. REV. 96, 100 (2011).

⁷¹ See generally PAOLO SPADONI, FAILED SANCTIONS: WHY THE US EMBARGO AGAINST CUBA COULD NEVER WORK 178–79 (2010). Other scholars argue that sanctions are still effective if behavioral change is not the only parameter. See also Thomas Altmann & Jason Giersch, *Sanctioned Terror: Economic Sanctions and More Effective Terrorism*, 59 INT’L POL. 383, 392–93 (2022); BALDWIN, *supra* note 7, at 109–11.

⁷² Spadoni, *supra* note 71.

⁷³ Gordon, *supra* note 9.

⁷⁴ *Specifically Designated Nationals and Blocked Persons List*, OFAC Sanctions List Service, <https://ofac.treasury.gov/specially-designated-nationals-and-blocked-persons-list-sdn-human-readable-lists> [<https://perma.cc/2LEC-ANE7>] (last visited May 7, 2024).

⁷⁵ See Special Rapporteur, *supra* note 19.

restraining the use of unilateral sanctions have distinguished unilateral sanctions from international sanctions authorized by the U.N.⁷⁶ Many of them argued that unilateral sanctions are illegitimate because of their coercive nature. Alena Douhan, the U.N. Special Rapporteur on the negative impact of unilateral coercive measures, has pinpointed that extraterritorial sanctions have disregarded the basic principles of international law: state sovereignty and non-intervention principles.⁷⁷ Without jurisdictional hooks—i.e., territoriality, personality, protective, and universal jurisdictions—states cannot impose coercion to intervene with other states' autonomy to formulate their own policies. Some scholars have applied the test of coercion and concluded that sanctions' coerciveness is indulged by international law. For example, citing an International Court of Justice case,⁷⁸ Elena Chachko has noted that even a comprehensive embargo does not breach customary international law.⁷⁹ In the Nicaragua case, the International Court of Justice contended that comprehensive embargos had not reached the coercive degree of military coercion; therefore, it was not unlawful.⁸⁰

C. *The Development of Coercion Theory and Its Limitations*

In addition to the prevalent theory of coercion, political scientists have identified two other critical roles that sanctions play: constraint and signaling.⁸¹ Sanctions acting as a constraint operate within the framework of a cost-benefit analysis. States may deploy sanctions to limit the sanctioned entities' capabilities to engage in policies that are deemed unfavorable. While such sanctions might not compel immediate behavioral change, the resultant economic detriment serves to inhibit the sanctioned entities' ability to persist with their policies. The signaling aspect of sanctions represents another essential function, demonstrating the imposer's determination to uphold certain values, such as human rights, or to protest against specific actions of the sanctioned entities. This signaling operates on two levels: internationally and domestically.⁸² On the global stage, sanctions communicate the imposer's disapproval of the recipient's conduct. Furthermore, when aligned with the actions of allies, sanctions can underscore a strong commitment to these partnerships, reinforcing shared stances against the sanctioned behavior.⁸³ On the domestic levels,⁸⁴ sanctions could be imposed half-heartedly by sanctions imposers' governments out of a need to satiate domestic political pressure to do something in response to some aspect of the targets' behavior. Alternatively, governments use sanctions to increase

⁷⁶ *Id.*

⁷⁷ *Id.* at 14–18.

⁷⁸ A comprehensive embargo does not breach customary international law. See Elena Chachko & J. Benton Heath, *A Watershed Moment for Sanctions? Russia, Ukraine, and the Economic Battlefield*, *AJIL UNBOUND* 116, 135–39 (2022).

⁷⁹ *Id.*

⁸⁰ *Military and Paramilitary Activities in and Against Nicaragua (Nicar. v. U.S.)*, Judgment, 1986 I.C.J. Rep. 14, 126, 140 (June 27).

⁸¹ Drezner, *supra* note 1, at 4.

⁸² Lindsay, *supra* note 7, at 166–67; BALDWIN, *supra* note 7, at 109–11.

⁸³ Giumelli, *supra* note 7, at 38–59.

⁸⁴ See Daniel W. Drezner, *THE SANCTIONS PARADOX: ECONOMIC STATECRAFT AND INTERNATIONAL RELATIONS* 13–14 (1999).

domestic support to thwart internal criticism of their foreign policies by acting decisively.⁸⁵

Building on the concept of signaling, scholars have introduced the notion of “symbolic sanctions.” These are employed by political leaders to convey messages to a domestic audience, often to embody certain moral principles or to gain support from domestic interest groups or the general populations. An illustrative example is provided by Galtung’s analysis of sanctions against Rhodesia, highlighting how sanctions can be used symbolically to project moral values.⁸⁶ In his view, imposers of sanctions can showcase their determination through the costs they impose, while recipients can demonstrate their resilience by maintaining their policies despite suffering harm.⁸⁷ Whang’s research further elucidates this concept by examining the impact of U.S. presidential approval ratings before and after the imposition or announcement of sanctions.⁸⁸ His empirical studies suggest that domestic political gains offer an incentive for policymakers to pursue sanctioning activities, even when such actions may not achieve their instrumental objectives. Specifically, Whang’s findings indicate that U.S. presidents are more inclined to resort to economic coercion under two conditions: (1) when facing low public approval ratings, and (2) when anticipating an improvement in their job approval ratings in the future.⁸⁹ By showing resolve through economic sacrifice, leaders can present a strong image of how determined they were to stand with moral values. Lindsay’s work provides additional empirical evidence of the symbolic use of sanctions. He has discussed how the Eisenhower administration’s imposition of sanctions on Cuba, just two weeks before a presidential election, was strategically aimed at boosting Nixon’s chances of electoral success.⁹⁰ This examination of “symbolic sanctions” has revealed the complex roles that sanctions can fulfill, moving beyond the traditional focus on coercion.

Despite the varied aspects of sanctions discussed, including coercive, constraining, signaling, and symbolic sanctions, they all share a fundamental principle: the use of economic harm to achieve or convey normative objectives, though the objectives may differ. In other words, at the heart of these strategies lies the concept of cost. In the cost-benefit analysis of coercive sanctions, the rationale is that imposing economic hardship will pressure the targeted entities to alter their behavior, as the cost of persisting under sanctions becomes too burdensome. Constraining sanctions employ a similar logic, aiming to limit the ability of the sanctioned entity to pursue certain policies through economic harm, without necessarily inducing a direct change in behavior. Furthermore, signaling and symbolic sanctions operate under the principle of “costly signaling.” This theory suggests that the imposition of significant economic costs serves as a powerful demonstration of the imposer’s commitment to particular policy goals. Such costly signals convey the imposer’s resolve, encouraging the

⁸⁵ Lindsay, *supra* note 7, at 166–67.

⁸⁶ Galtung, *supra* note 7, at 378.

⁸⁷ *Id.* at 411–12.

⁸⁸ See Whang, *supra* note 7, at 787–801.

⁸⁹ *Id.* at 799.

⁹⁰ Lindsay, *supra* note 7, at 156.

recipient to reconsider and potentially modify their policies.⁹¹ This underscores the central role of economic cost across all forms of sanctions, serving as a critical lever to influence sanctions targets' behaviors and policy decisions or to send messages of resolve to international or domestic audience.

However, the subsequent parts of this paper will illustrate that not all sanctions necessarily involve economic detriment. A notable gap in existing scholarship is its inadequacy in explaining the sanctions practices of two authoritarian regimes: China and Russia. In what follows, I will explore their nuanced approach to sanctions, which often incurs minimal or no economic cost yet manages to communicate values and send targeted messages to various stakeholders. While the sanctions laws of China and Russia may appear coercive on the surface, a closer examination of their enforcement reveals a departure from the traditional theory of coercion and costly signaling. I characterize their approach to sanctions as performative, lacking significant economic consequences. This method not only minimizes the financial impact of sanctions but also addresses concerns related to the principle of non-intervention by employing sanctions in a manner that is more performative than substantive.

II. "COERCIVE" ON PAPER: SANCTIONS LAWS IN CHINA AND RUSSIA

A. *Research Methodology and Overview of China's and Russia's (Anti)sanctions Laws*

This paper focuses on China and Russia as case studies because they are both identified as authoritarian states⁹² and prioritized as U.S. national security threats.⁹³ Until now, three non-democratic states have implemented (anti)sanctions laws: Russia,⁹⁴ China,⁹⁵ and Iran.⁹⁶ As Iran's economic volume is not comparable to China's and Russia's, this paper has picked China and Russia as case studies.

China and Russia respectively enacted (anti)sanctions laws, which fit into the coercive characteristics of sanctions that inflict economic pains to defend normative values. Since 2020, China has implemented three sets of rules as part of its legal toolbox "to challenge and guard against risks of foreign sanctions, interference, and long-arm jurisdiction."⁹⁷ Consequently, China enacted

⁹¹ Baldwin, *supra* note 7, at 106; Lindsay, *supra* note 7, at 156; Galtung, *supra* note 7, at 411–12; James Fearon, *Selection Effects and Deterrence*, 28 INT'L INTERACTION 5, 13–14 (2002).

⁹² See generally CITIZENS AND THE STATE IN AUTHORITARIAN REGIMES: COMPARING CHINA AND RUSSIA (Karrie Koesel, Valerie Bunce, and Jessica Weiss, eds., 2020).

⁹³ THE WHITE HOUSE, NATIONAL SECURITY STRATEGY 23–27 (Oct. 2022), <https://www.whitehouse.gov/wp-content/uploads/2022/10/Biden-Harris-Administrations-National-Security-Strategy-10.2022.pdf> [<https://perma.cc/Z5FY-5V98>].

⁹⁴ On Measures (Countermeasures) in Response to Unfriendly Actions of the United States and Other Foreign States, *supra* note 11.

⁹⁵ Anti-Foreign Sanctions Law, *supra* note 5.

⁹⁶ Strategic Action Plan to Lift Sanctions and Protect Iranian Nation's Interests (Supreme National Security Council of the Islamic Republic of Iran, January 2020).

⁹⁷ Li Zhanshu (栗战书), *Quanguo Renmin Daibiao Dahui Changwu Weiyuanhui Gongzuo Baogao* (全国人民代表大会常务委员会工作报告) [Work Report of the Standing Committee

the “Provisions of Unreliable Entity List” in September 2020,⁹⁸ the “Rules on Blocking Unjustified Extraterritorial Application of Foreign Legislation and Measures” in January 2021,⁹⁹ and the “Anti-Foreign Sanctions Law” in June 2021.¹⁰⁰ These laws authorized the Chinese government to inflict economic harm such as asset freezes, trade restrictions, and investment prohibitions. These transaction-restrictive measures serve to defend China’s normative values, such as “opposing hegemony, power politics, and interference of China’s domestic affairs” and “defending China’s sovereignty, security, and development interests.”¹⁰¹ Similarly, Russia promulgated the Federal Law “On Measures (Countermeasures) in Response to Unfriendly Actions of the USA and (or) other Foreign States”¹⁰² to defend Russia’s national interests and political and economic stability. Accordingly, this law authorized the Russian government to impose economic harms such as the termination of economic cooperation, import and export bans, and transaction prohibitions to defend its normative values.¹⁰³

China’s and Russia’s anti-sanctions laws display unique features that distinguish them from the sanctions enforced by the United States. These features, which I term “responsiveness,” indicate that China and Russia typically impose sanctions only in retaliation to sanctions levied against them.¹⁰⁴ However, these distinctive traits do not change the underlying coercive essence of their sanctions. A key distinction between the sanctions laws of the United States and those of China and Russia lies in the values embedded within their respective sanctions regimes. The United States incorporates normative values such as human rights, democracy, and opposition to military-civil fusion strategies into its sanctions framework,¹⁰⁵ aiming to initiatively target nations, organizations, or individuals believed to threaten values critical to U.S. national

of the National People’s Congress], XINHUA SHE (新华社) [Xinhua News] (Mar. 14, 2021, 15:37), http://www.gov.cn/xinwen/2021-03/14/content_5592895.htm [<https://perma.cc/W4GV-ANDM>] (China).

⁹⁸ Bukekao Shiti Qingdan Guiding (不可靠实体清单规定) [Provisions of Unreliable Entity List] (promulgated by the Ministry of Commerce, Sept. 19, 2020, effective Sept. 19, 2020), The Ministry of Commerce Order No. 4, 2020, <http://www.mofcom.gov.cn/article/b/fwzl/202009/20200903002593.shtml> [<https://perma.cc/M8ZZ-K7BB>] (China) [hereinafter Provisions of Unreliable Entity List].

⁹⁹ Zuduan Waiguo Falü yu Cuoshi Budang Yuwai Shiyong Banfa (阻断外国法律与措施不当域外适用办法) [Rules on Blocking Unjustified Extraterritorial Application of Foreign Legislation and Measures] (promulgated by the Ministry of Commerce, Jan. 1, 2021, effective Jan. 1, 2021), The Ministry of Commerce Order No. 1, 2021, <http://www.mofcom.gov.cn/article/b/c/202101/20210103029710.shtml> [<https://perma.cc/Y6XD-MT9E>] (China) [hereinafter Rules on Blocking Unjustified Extraterritorial Application of Foreign Legislation and Measures].

¹⁰⁰ See Anti-Foreign Sanctions Law, *supra* note 5.

¹⁰¹ See Anti-Foreign Sanctions Law, *supra* note 5, arts. 3, 15; Provisions of Unreliable Entity List, *supra* note 98, arts. 1, 2; Rules on Blocking Unjustified Extraterritorial Application of Foreign Legislation and Measures, *supra* note 99, art. 3.

¹⁰² See On Measures (Countermeasures) in Response to Unfriendly Actions of the United States and Other Foreign States, *supra* note 11.

¹⁰³ *Id.*

¹⁰⁴ For a clear illustration of “responsiveness,” please refer to the discussion in Part IV of this article.

¹⁰⁵ See generally THE WHITE HOUSE, *supra* note 93 [<https://perma.cc/2ZBM-GAKR>].

security and foreign policy. In contrast, the values underpinning the (anti)sanctions laws of China and Russia emphasize non-intervention and sovereignty, primarily defensive, intended to safeguard their sovereignty and shield domestic affairs from external interference.¹⁰⁶ Notably, as demonstrated in next Part on China's and Russia's (anti)sanctions practices, China and Russia rarely impose sanctions against foreign entities unless they have been sanctioned by other countries first. Specifically, their enforcement measures are generally presented as direct rebuttals to sanctions imposed on them. This is either clearly stated, with specific mention of the sanctions they are responding to at the time of their announcement, or it is made apparent by the existence of prior sanctions from foreign entities aimed at them.¹⁰⁷ Despite this responsive approach, the coercive nature of sanctions remains the same. As defined earlier, the coercive function of sanctions is to inflict economic harm in the defense of certain values, irrespective of whether the action is responsive or initiatory. Thus, the sanctions applied by China and Russia exhibit a coercive dimension, maintaining the objective of economic harm to uphold specific values.

B. China's (Anti)sanctions Laws

Until 2020, the Chinese government had implemented U.N. Resolutions-related sanctions without developing its own sanctions regime. However, to counter sanctions against China,¹⁰⁸ China enacted the "Provisions of Unreliable Entity List" in September 2020,¹⁰⁹ the "Rules on Blocking Unjustified Extraterritorial Application of Foreign Legislation and Measures" in January 2021,¹¹⁰ and the Anti-Foreign Sanctions Law in June 2021.¹¹¹ Notably, before enacting these laws, China's Ministry of Foreign Affairs ("MFA") implemented sanctions measures without relying on any legal authorities, which I will discuss in the enforcement part of this paper. As the Rules on Blocking Unjustified Extraterritorial Application of Foreign Legislation and Measures aims at blocking the legal effects of foreign laws or measures against China, which do not fall into the definition of "sanctions" as defined in Part I,¹¹² I will focus on the Anti-

¹⁰⁶ See Anti-Foreign Sanctions Law, *supra* note 5, art. 3; On Measures (Countermeasures) in Response to Unfriendly Actions of the United States and Other Foreign States, *supra* note 11, art. 1.

¹⁰⁷ For a clear illustration of "responsiveness," please refer to the discussion in Part IV of this article.

¹⁰⁸ The Biden Administration has been imposed economic sanctions measures such as export control, travel bans, asset freeze and investment restrictions on Chinese entities. For an overview of U.S. sanctions against China, see China Briefing Team, *US-China Relations in the Biden Era: A Timeline*, CHINA BRIEFING (Mar. 22, 2021, updated on Apr. 17, 2023), <https://www.china-briefing.com/news/us-china-relations-in-the-biden-era-a-timeline/> [https://perma.cc/Q57G-FSLC].

¹⁰⁹ Provisions of Unreliable Entity List, *supra* note 98.

¹¹⁰ Rules on Blocking Unjustified Extraterritorial Application of Foreign Legislation and Measures, *supra* note 99.

¹¹¹ See Anti-Foreign Sanctions Law, *supra* note 5.

¹¹² The key in this statute is the reporting obligations: Under Article 5 of the Blocking Rules, if a PRC Person is prohibited or restricted by foreign laws and measures from engaging in normal economic, trade and related activities with a third country (or region) or its citizens, legal persons or other organizations, such PRC Person shall truthfully report such prohibition or restriction to the MOFCOM within 30 days. The MOFCOM must keep such report

Foreign Sanctions Law and the Provisions of Unreliable Entity List.¹¹³

1. The Anti-Foreign Sanctions Law

The Anti-Foreign Sanctions Law establishes a legal framework for China to sanction foreign individuals and entities. This law enables China to target individuals or organizations directly or indirectly involved in creating, deciding upon, or implementing discriminatory measures against China.¹¹⁴ Furthermore, it allows for sanctions against those who endanger China's perceived sovereignty, security, or development interests.¹¹⁵ Article 12 of the Anti-Foreign Sanctions Law specifically forbids any individual or organization, regardless of nationality, from supporting foreign discriminatory actions against Chinese citizens or entities.¹¹⁶ Additionally, under Article 12, the Law specifies civil remedies: if a party breaches the law, the victim of the offense (i.e., the relevant Chinese citizens or organizations) can initiate civil lawsuits against the breaching party in a Chinese court, seeking redress and damages.¹¹⁷

Article 3.2 targets actions by foreign nations that contravene international law and the foundational norms of international relations, including the imposition of discriminatory restrictions against Chinese citizens or entities under false pretexts or through their domestic laws, thereby meddling in China's domestic affairs.¹¹⁸ Furthermore, Article 15 asserts that in cases where China's sovereignty, security, or development interests are jeopardized, appropriate countermeasures as prescribed by this law will be applied accordingly.¹¹⁹ This implies that the law is designed to address various scenarios, including those where foreign states enact sanctions or export controls that adversely affect key Chinese industries, such as the high-tech sector.

The Anti-Foreign Sanctions Law outlines measures akin to traditional sanctions, including visa restrictions, asset freezes, and transaction bans, with the flexibility to impose additional unspecified sanctions, emphasizing its coercive nature.¹²⁰ Furthermore, the Law also allows the Chinese government to impose sanctions against associates of sanctioned entities, such as family members and organizations connected to sanctioned individuals. This approach aims for

confidential upon the request of the reporting person. However, as I have pointed out in Part I, this paper defines sanctions as "economic measures to promote or achieve normative values," and this paper focuses on "negative sanctions," which are linked to threats and economic restrictions and exclusions.

¹¹³ While Timothy Webster provides a comprehensive summary of the Unreliable Entity List, the Rules on Blocking Unjustified Extraterritorial Application of Foreign Legislation and Measures, and the Anti-Foreign Sanctions Law, along with insights into China's sanctions enforcement, the following section reflects my reading of these laws and the conclusions drawn from my empirical research. See Timothy Webster, *Retooling Sanctions: China's Challenge to the Liberal International Order*, 23 CHI. J. INT'L L. 178 (2022).

¹¹⁴ Anti-Foreign Sanctions Law, *supra* note 5, art. 4.

¹¹⁵ *Id.* art. 15.

¹¹⁶ *Id.* art. 12.

¹¹⁷ *Id.*

¹¹⁸ *Id.* art. 3.

¹¹⁹ *Id.* art. 15.

¹²⁰ *Id.* art. 6.

deterrence and expands the scope of sanctions to include a broader network related to the primary targets, although such measures require specific authorization by relevant state departments.¹²¹

2. The Provisions of Unreliable Entity List

The Provisions of Unreliable Entity List, formulated in accordance with China's Foreign Trade Law¹²² and National Security Law,¹²³ grant the Chinese government the power to enforce sanctions, detailing the grounds for such actions comprehensively. The Provisions of the Unreliable Entity List empower the Chinese government to sanction foreign entities whose international trade activities and related actions compromise the sovereignty, security, and development interests of China.¹²⁴

Following thorough investigations, including document reviews and interviews to assess whether foreign entities have compromised China's national interests, the Chinese government has the authority to designate such entities—be it enterprises, organizations, or individuals from abroad—under the Provisions of the Unreliable Entity List.¹²⁵ These provisions stipulate that the government will evaluate several criteria to determine the existence of compromising China's national interests: the extent of threat to China's national sovereignty, security, or developmental interests; the level of harm inflicted on the legitimate rights and interests of Chinese enterprises, organizations, or individuals; adherence to internationally recognized economic and trade norms; and other relevant considerations.¹²⁶ The Provisions do not explicitly define “security.” However, since the Provisions of the Unreliable Entity List were enacted under the framework of the National Security Law, the definition of national security can be inferred from the National Security Law itself. The Chinese National Security Law regarded “security” as a “relatively safe and free-from-threats state of political power, sovereignty, unity, and territorial integrity, people's well-being, sustainable economic and social development, and other major national interests, as well as the ability to safeguard a continuous state of such security.”¹²⁷

¹²¹ See generally MICHAEL R. DUTTON, *POLICING AND PUNISHMENT IN CHINA: FROM PATRIARCHY TO “THE PEOPLE”* (1992).

¹²² *Zhonghua Renmin Gongheguo Duiwai Maoyi Fa* (中华人民共和国对外贸易法) [Foreign Trade Law of People's Republic of China] (promulgated by the Standing Comm. Nat'l People's Cong., May 12, 1994, revised Apr. 6, 2004, effective July 1, 2004), art. 2, <http://www.mofcom.gov.cn/article/swfg/swfgbf/201101/20110107350814.shtml> [<https://perma.cc/3QCU-8TG3>] (China) [hereinafter *Foreign Trade Law of People's Republic of China*].

¹²³ *Zhonghua Renmin Gongheguo Guojia Anquan Fa* (中华人民共和国国家安全法) [National Security Law of People's Republic of China] (promulgated by the Standing Comm. Nat'l People's Cong., July 1, 2015, effective July 1, 2015), art. 2, President Order No. 17, http://www.gov.cn/zhengce/2015-07/01/content_2893902.htm [<https://perma.cc/6M5L-KC3Q>] (China).

¹²⁴ Provisions of Unreliable Entity List, *supra* note 98, art. 2.

¹²⁵ *Id.* arts. 2, 6 & 7.

¹²⁶ *Id.* art. 7.

¹²⁷ See *supra* note 123.

The sanction's measures covered by the Provisions of Unreliable Entity List include restrictive measures involving a large range of economic activities: restrictions or prohibitions on import, export, or investment; on personnel or transport vehicles from entering into China; on personnel's work permits or qualifications for stay or residence in China; fines and other necessary measures.¹²⁸ According to the Chinese Foreign Trade Law, "imports and exports" cover the import and export of goods, technology, and international trade services.¹²⁹

C. Russia's (Anti)sanctions Laws

1. Measures (Countermeasures) in Response to Unfriendly Actions

Shifting focus from China's (anti)sanctions laws that respond to perceived external threats to Russia's (anti)sanctions laws, we see a similar strategic maneuver by Russia. Russia promulgated the federal law in June 2018.¹³⁰ The Russian government has been granted the authority to implement various sanctions against "unfriendly" states and their associated entities, including: (1) suspending or ending international cooperation;¹³¹ (2) banning or limiting imports of products and materials;¹³² (3) banning or restricting exports;¹³³ (4) prohibiting or limiting the provision of services for state and municipal needs to entities linked to unfriendly states;¹³⁴ (5) restricting the privatization of state property and related services for entities under the jurisdiction of unfriendly states;¹³⁵ and (6) additional measures as decided by the President of Russia.¹³⁶

The restrictive measures outlined in the law are designed to uphold Russia's normative values, as articulated in Article 1 of the "On Measures (Countermeasures) in Response to Unfriendly Actions of the USA and (or) other Foreign States."¹³⁷ This article clarifies that the law's primary objective is to safeguard the interests and security of the Russian Federation, along with its sovereignty and territorial integrity.¹³⁸ It aims to protect the rights and freedoms of its citizens from hostile actions by the United States and other foreign states.¹³⁹ As Article 1 elaborates, such hostilities include political or sanctions against Russia, its citizens, or Russian legal entities, and any other activities threatening Russia's territorial integrity or aiming to destabilize its economic and political landscape.¹⁴⁰

¹²⁸ Provisions of Unreliable Entity List, *supra* note 98, art. 10.

¹²⁹ See *supra* note 122.

¹³⁰ See *supra* note 94.

¹³¹ On Measures (Countermeasures) in Response to Unfriendly Actions of the United States and Other Foreign States, *supra* note 11, art 2.1.

¹³² *Id.* art. 2.2.

¹³³ *Id.* art. 2.3.

¹³⁴ *Id.* art. 2.4.

¹³⁵ *Id.* art. 2.5.

¹³⁶ *Id.* art. 2.6.

¹³⁷ *Id.* art. 1.

¹³⁸ *Id.*

¹³⁹ *Id.* art 1.1.

¹⁴⁰ *Id.*

The Law determined that “unamicable foreign states” should be understood as the United States and other foreign countries committing “unamicable actions” with respect to Russia or its citizens or legal entities.¹⁴¹ The Law does not explicitly define “unfriendly actions.” According to Article 1(1), such actions could include the imposition of political or sanctions against Russia, Russian citizens, or Russian legal entities.¹⁴² Additionally, it mentions that unfriendly actions could also encompass any activities that “threaten the territorial integrity of Russia or aim at its economic and political destabilization.”¹⁴³

2. Bills Intended to Criminalize Compliance with Sanctions

Russian lawmakers have tried twice to criminalize compliance with foreign sanctions against Russia. Though their efforts have failed, it is worth examining these bills because they may show some Russian government officials’ attitudes.

In 2018, Russian lawmakers took the initiative and introduced a bill¹⁴⁴ that would give Russian courts the authority to impose prison terms and financial penalties on an individual or representative of a legal entity in Russia that allows the application of anti-Russian sanctions.¹⁴⁵ However, a second reading was postponed pending further consultation with key Russian businesses and lobbying groups.¹⁴⁶ At the time, the bill caused serious concerns, especially among the heads of Russian offices of foreign companies. The concerns related to the potential risks of prosecution that might arise, if, as requested by their headquarters, foreign companies were to halt their operations in Russia or stop doing business with certain Russian counterparties.¹⁴⁷

After countries and regional organizations such as the United States and European Union imposed sweeping sanctions against Russia in response to the

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ Polina Nikolskaya & Tom Balmforth, *Russia postpones bill making U.S. sanctions compliance a crime*, REUTERS (May 17, 2018), [https://www.reuters.com/article/idUSKCN1III0WK/\[https://perma.cc/3CCY-NVVV\]](https://www.reuters.com/article/idUSKCN1III0WK/[https://perma.cc/3CCY-NVVV]).

¹⁴⁵ Alexander Bychkov, Vladimir Efremov, Maxim Kuznechenkov, Denis Ezhov, Oleg Tkachenko and Artyom Gulyants, *Russia Is Considering Criminal Sanctions for Executives of Companies That Take Actions in Order to Implement Foreign Sanctions*, BAKER MCKENZIE LLP (Apr. 25, 2022), <https://sanctionsnews.bakermckenzie.com/russia-is-considering-criminal-sanctions-for-executives-of-companies-that-take-actions-in-order-to-implement-foreign-sanctions/> [https://perma.cc/NU2Z-5CH6].

¹⁴⁶ Lyubov Chizhova, “Prishlos’ otkatit’ nazad”. *Zakon o “kontrsanktsiyakh” prinyat v pervom chtenii* [“I had to roll it back.” *The law on “counter-sanctions” was adopted in the first reading*], RADIO SVOBODA (Mar. 15, 2018), <https://www.svoboda.org/a/29228059.html> [https://perma.cc/5TR5-2KFC]; *V Gosdume predlagayut ugolovnoye nakazaniye za ispolneniye sanktsiy* [The State Duma proposes criminal penalties for the implementation of sanctions], RADIO SVOBODA (Mar. 14, 2018), <https://www.svoboda.org/a/29225442.html> [https://perma.cc/F8H3-72DV] (Russ.).

¹⁴⁷ See Denis Pinchuk, *UPDATE 1-Russia Signals Counter-sanctions Bill May Be Diluted*, REUTERS (May 18, 2018), <https://www.reuters.com/article/russia-germany-sanctions-usa-idUKL5N1SP4IZ> [https://perma.cc/AKH9-N4Y7].

February 2022 invasion of Ukraine,¹⁴⁸ Russian lawmakers tried to revive the efforts to criminalize sanctions compliance. A new bill¹⁴⁹ has been proposed to modify Article 201 of the Russian Criminal Code, introducing a specific provision that addresses liability for adhering to sanctions as a form of abuse of authority (Article 201(2) of the Russian Criminal Code).¹⁵⁰ The proposed bill seeks to broaden the criminal accountability of individuals who misuse their positions by enforcing foreign-imposed sanctions against Russia. The bill has also encountered resistance and setbacks, mirroring the trajectory of a similar proposal previously introduced. The proposal has not been passed at the time of writing.

D. Coercive Feature of China's and Russia's (Anti)sanctions Laws

On paper, a review of China's and Russia's legislative trends shows that their (anti)sanctions act as coercive economic measures. According to the predominant coercion theory's definition of sanctions as mentioned in the Introduction, these sanctions are intended to inflict economic damage to support normative values. The sanctions mechanisms utilized by China and Russia, including travel bans, asset freezes, and various restrictions and prohibitions on imports, exports, and investments, align with the economically restrictive measures used by active sanctioning nations like the United States.¹⁵¹ Furthermore, China's and Russia's sanctions laws appear harsher; for example, China's sanctions laws stipulate that it may sanction not only the wrongdoers but also their direct relatives and their affiliated companies.¹⁵²

The defense of normative values via sanctions in both China and Russia underscores the coercive nature of their legal frameworks for sanctions on paper. As indicated in the language of the Chinese Anti-Foreign Sanctions Law and the Provisions of Unreliable Entity List, China's (anti)sanctions laws are intended to oppose values such as hegemonies, power politics, and intervention in domestic affairs. China deploys these laws to defend China's values of respect for "sovereignty and territory integrity," "non-intervention," "equality,"

¹⁴⁸ Press Release, White House, *FACT SHEET: United States, G7 and EU Impose Severe and Immediate Costs on Russia* (April 6, 2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/04/06/fact-sheet-united-states-g7-and-eu-impose-severe-and-immediate-costs-on-russia/> [<https://perma.cc/988K-BAJ>].

¹⁴⁹ *The draft federal law No. 102053-8 "On Amendments to Article 201 of the Criminal Code of the Russian Federation,"* <https://sozd.duma.gov.ru/bill/102053-8> [<https://perma.cc/B339-3S6E>].

¹⁵⁰ "Abuse of Authority; 2. The same deed, which has involved grave consequences, shall be punishable with a fine in an amount of one million rubles, or in the amount of the wage or salary, or any other income of the convicted person for a period of up to five years or without such, or with compulsory labor for a term of up to five years accompanied by deprivation of the right to hold specified posts or engage in specified activities for a term of up to three years or without such, or by deprivation of liberty for a term of up to ten years accompanied by deprivation of the right to hold certain offices or to be engaged in certain kinds of activities for a term of up to three years." See *The Criminal Code of the Russian Federation*, No. 63-Fz (Jun. 13, 1996), art. 201, https://www.imolin.org/doc/amlid/Russian_Federation_Criminal_Code.pdf [<https://perma.cc/Y34X-FEHW>].

¹⁵¹ CONG. RSCH. SERV., *infra* note 233.

¹⁵² Anti-Foreign Sanctions Law, *supra* note 5, art. 5.

and “reciprocity.”¹⁵³ Russia, in a similar way, has denounced hegemonies and power politics and has expressed the need to guard Russia’s sovereignty, integrity, and authority to govern its domestic affairs.¹⁵⁴ Furthermore, they have both invoked international law in order to legitimize their values. Specifically, China’s Anti-Foreign Sanctions Law asserts the country’s commitment to “maintaining the international system centered around the United Nations and the international order founded on international law,” while opposing “actions that contravene international law and the fundamental principles of international relations.”¹⁵⁵ Russia, in its law, On Measures (Countermeasures) in Response to Unfriendly Actions of the USA and (or) other Foreign States, has similarly emphasized the importance of international legal order.¹⁵⁶ These attributes underscore the predominant view that sanctions are coercive instruments intended to maintain public order in particular contexts.¹⁵⁷

III. “NON-COERCIVE” IN NATURE: SANCTIONS ENFORCEMENT IN CHINA AND RUSSIA

A. *Research Methodology and Overview of China’s and Russia’s Practices*

As Part II demonstrated, China’s and Russia’s sanctions laws are framed to stipulate coercive measures. However, upon closer examination of their law enforcement, it becomes clear that their approach to sanctions primarily showcases a performative characteristic rather than exerting significant coercive pressure. This analysis reveals that the sanctions imposed by China and Russia have not followed the predominant coercion framework, which aims to inflict economic harm on targets to change their behaviors. Rather, their sanctions enforcement has limited the economic harm inflicted on targets.

These findings are the result of a thorough empirical investigation into all instances of Chinese and Russian sanctions measures that are accessible through open-source information.¹⁵⁸ For China, I collected all (anti)sanctions announcements from internet resources of the MFA.¹⁵⁹ From my work experience, the MFA is the department that generally announces (anti)sanctions measures.¹⁶⁰ I have included in my research the dataset of MFA sanctions measures before the official promulgation of the Anti-Foreign Sanctions Law

¹⁵³ See Anti-Foreign Sanctions Law, *supra* note 5, arts. 3, 15; Provisions of Unreliable Entity List, *supra* note 98, arts. 1, 2; Rules on Blocking Unjustified Extraterritorial Application of Foreign Legislation and Measures, *supra* note 99, art. 3.

¹⁵⁴ See On Measures (Countermeasures) in Response to Unfriendly Actions of the United States and Other Foreign States, *supra* note 11, arts. 1–2.

¹⁵⁵ Anti-Foreign Sanctions Law, *supra* note 5, art. 3.

¹⁵⁶ See On Measures (Countermeasures) in Response to Unfriendly Actions of the United States and Other Foreign States, *supra* note 11, art. 1.

¹⁵⁷ See Reisman, *supra* note 1.

¹⁵⁸ The full data is available upon request for academic research purposes.

¹⁵⁹ WAIJIAOBU (外交部) [Ministry of Foreign Affairs], <https://www.fmprc.gov.cn> [<https://perma.cc/8R8R-F5GA>] (last visited April 20, 2023); WeChat Official Account, Waijiaobu (外交部) [Ministry of Foreign Affairs] (China).

¹⁶⁰ I worked as a lawyer at Fangda Partners, where my primary practice focused in sanctions-related cases.

because it also reveals trends in China's approach to (anti)sanctions practices. For Russia, I adopted three steps of data verification to ensure the accuracy of my data. First, I put the keywords "sanction," "unfriendly," and "counter" into the Russian government's official English website,¹⁶¹ reviewed every hit, and recorded all (anti)sanctions enforcement. However, the official English website's information did not seem comprehensive because I noticed some measures reported by the media that were not included in the English source. Thus, I then read second-hand summaries of Russian (anti)sanctions measures in Kodeks,¹⁶² CIS-Legislation,¹⁶³ news reports,¹⁶⁴ and law firm websites¹⁶⁵ to identify Russian (anti)sanctions measures. I first recorded the summaries in my datasheet and verified the resources against the Russian government's Russian-language website.¹⁶⁶ I discovered discrepancies between (anti)sanctions measures published on the Russian government's website in Russian and their English counterparts on its official website, including some items missing from the English version. I have incorporated the items missing from the English version into my comprehensive dataset. Finally, to ensure that my data are accurate, I asked for help from a data scientist¹⁶⁷ to check my datasheet and found eight missing items of (anti)sanctions measures. I supplemented these data into my datasheet and finalized my data collection, which I completed on April 24, 2023. The analysis of publicly available data reveals the following patterns in China's and Russia's enforcement of (anti)sanctions.¹⁶⁸

B. China: Sanction Entities with Limited Chinese Business for Multiple Times

A key performative aspect of China's sanctions strategy is its emphasis on targeting individuals rather than companies, often sanctioning entities that have minimal business dealings with China. This approach has primarily focused on foreign government officials rather than economic entities. Additionally, while China has excluded certain companies from its market, the impact of such exclusions has been minimal, owing to the companies' limited market share in China before being sanctioned. This pattern underscores the performative rather than coercive nature of China's sanctions enforcement.

¹⁶¹ THE RUSSIAN GOVERNMENT, <http://government.ru/en/> [<https://perma.cc/6Y4J-4XEE>] (last visited April 20, 2023).

¹⁶² KODEKS: RUSSIAN LEGISLATION, <https://www.eastview.com/resources/e-collections/kodeks/> (last visited May 7, 2024).

¹⁶³ CIS LEGISLATION, *Legislation of 11 Countries*, <https://cis-legislation.com> [<https://perma.cc/TN96-EZVB>] (last visited May 1, 2023).

¹⁶⁴ *E.g.*, the New York Times, the Wall Street Journal, Reuters, Politico.

¹⁶⁵ *See, e.g.*, BAKER MCKENZIE, *Sanctions & Export Control Update*, <https://sanctionsnews.bakermckenzie.com> [<https://perma.cc/QA8U-ZTZG>] (last visited May 1, 2023).

¹⁶⁶ I used Google Translation to translate Russian resources in the official website into English. If the google translation perfectly matched second-hand reports in English, I would view that as a valid verification and include the data in my datasheet.

¹⁶⁷ HARVARD LAW SCHOOL, *Arora Prachee*, <https://hls.harvard.edu/prachee-arora/> [<https://perma.cc/A66Z-36FM>] (last visited April 20, 2023).

¹⁶⁸ My comprehensive dataset is available upon request for academic research purpose only. The following data analysis, encompassing percentages and other data analysis, is grounded in my examination of this dataset. I have shared the complete data with the editorial team of this journal for verification purposes.

Before China enacted the Anti-Foreign Sanctions Law, the MFA sanctioned 63 entities, and around 80 percent of all of the MFA sanctions before the Anti-Foreign Sanctions Law are individuals (mostly government officials), such as Senator Ted Cruz¹⁶⁹ and Senator Tom Cotton.¹⁷⁰ 14 percent are non-profit organizations, including research institutions such as China Research Group,¹⁷¹ and NGOs such as the Conservative Party Human Rights Commission.¹⁷² Only four of the sanctioned entities are profit-driven, including Boeing Defense, Space & Security, Lockheed Martin, Raytheon Technologies,¹⁷³ and Essex Court Chambers.¹⁷⁴ Most of the sanctions were imposed in response to alleged human rights violations in the Xinjiang region of China¹⁷⁵ or interfering in Hong Kong affairs.¹⁷⁶ At this stage, all sanctions measures were announced by the MFA's spokesmen.

For the sanctions imposed on these sixty-three entities, the MFA either did not specify the sanctions measures or provided descriptions that were legally ambiguous. In August 2020, the MFA sanctioned eleven individuals based on

¹⁶⁹ Press Release, Ted Cruz, *Sen. Cruz On China's Announced Sanctions: The Chinese Communist Party Is "Terrified and Lashing Out"* (Jul. 13, 2020), <https://www.cruz.senate.gov/newsroom/press-releases/sen-cruz-on-china-and-146s-announced-sanctions-the-chinese-communist-party-is-and-145terrified-and-lashing-out-and-146> [<https://perma.cc/LU9E-GCAV>].

¹⁷⁰ Press Release, Tom Cotton, *Cotton Reacts to Chinese Sanctions* (Aug. 10, 2020), <https://www.cotton.senate.gov/news/press-releases/cotton-reacts-to-chinese-sanctions> [<https://perma.cc/T7HS-YF5G>].

¹⁷¹ Spokesperson's Remarks, Foreign Ministry Spokesperson Announces Sanctions on Relevant UK Individuals and Entities, Ministry of Foreign Affairs of the People's Republic of China (Mar. 26, 2021), https://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/2535_665405/202103/t20210326_9170815.html [<https://perma.cc/K92F-AWJC>].

¹⁷² *Id.*

¹⁷³ Waijiaobu Fayaren Bangongshi (@xws4_fmprc) (外交部发言人办公室) [Ministry of Foreign Affairs Spokesperson's Office], *Meifang xiang Taiwan Diqu Shou Wu Waijiaobu Xuanbu dui Mei Shishi Zhicai* (美方向台湾地区售武 外交部宣布对美实施制裁) [The U.S. Sells Arms to Taiwan; the Ministry of Foreign Affairs Announces Sanctions Against the U.S.], Ministry of Foreign Affairs WeChat Official Account (Oct. 26, 2020), https://mp.weixin.qq.com/s/OUNu5M1URaji1m9nlq_E2Q [<https://perma.cc/2DH7-BFEY>] (China); *Foreign Ministry Spokesperson Wang Wenbin's Regular Press Conference on February 21, 2022*, MINISTRY OF FOREIGN AFF. OF THE PEOPLE'S REP. OF CHINA (Feb. 21, 2022), https://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/202202/t20220221_10644075.html [<https://perma.cc/ZY4N-XZ7A>].

¹⁷⁴ *China Announces Sanctions on British Individuals, Entities*, XINHUA (Mar. 26, 2021), http://www.xinhuanet.com/english/2021-03/26/c_139836851.htm [<https://perma.cc/WY5R-L3MC>].

¹⁷⁵ *E.g.*, Waijiaobu Fayaren Bangongshi (@xws4_fmprc) (外交部发言人办公室) [Ministry of Foreign Affairs Spokesperson's Office], *Regular Press Conference*, WECHAT (Jul. 13, 2020), <https://mp.weixin.qq.com/s/oR1jbpMCBzeWwtiparE9pw> [<https://perma.cc/MVG8-KJAP>] (China).

¹⁷⁶ *E.g.*, Waijiaobu Fayaren Bangongshi (@xws4_fmprc) (外交部发言人办公室) [Ministry of Foreign Affairs Spokesperson's Office], *Zhao Lijian: Zhongfang jueding dui zai She Gang Wenti shang Biaoxian Elie de Meifang Renyuan Shishi Zhicai* (赵立坚：中方决定对在涉港问题上表现恶劣的美方人员实施制裁) [Zhao Lijian: China Has Decided to Impose Sanctions on U.S. Personnel who Have Behaved Badly on Hong Kong-Related Issues], WECHAT (Aug. 10, 2020), <https://mp.weixin.qq.com/s/RAoALwvaLa-bhfNr0sec1A> [<https://perma.cc/N5RG-GP49>] (China).

their “interference in Hong Kong issues.”¹⁷⁷ However, at that time, the Chinese government only announced that it sanctioned these persons without disclosing the specific sanctions measures. The spokesperson of the MFA, Lijian Zhao, stated “China resolutely opposes and strongly condemns some acts that blatantly interfered with China’s internal affairs and seriously violated international law and the basic norms of international relations. China, therefore, announced to sanction these eleven persons.”¹⁷⁸ However, Mr. Zhao has not specified any particular sanctions, and the MFA has yet to announce such measures. Other sanctions measures were legally vague. For example, in January 2021, China sanctioned ten government officials, including then-Secretary of State Michael Pompeo, for their “interference with China’s sovereign-related issues.”¹⁷⁹ The Chinese government announced to “prohibit these sanctioned persons and their *families* from entering China mainland, Hong Kong, and Macao and restricted them and companies and institutions *associated with* them from doing business with China.”¹⁸⁰ The broad terms “family” and “associated with” were left undefined. In October 2020, the Chinese government announced sanctions on three companies for their arms sales to Taiwan: Lockheed Martin, Boeing Defense, Space and Security, and Raytheon Technologies.¹⁸¹ The sanctions measures, again, were undisclosed at that time.¹⁸²

After China promulgated the Anti-Foreign Sanctions Law, it imposed (anti)sanctions measures on twenty-seven entities. Around 82 percent are individuals, such as Sophie Richardson (China Director at Human Rights Watch)¹⁸³ and Nancy Pelosi (then-Speaker of the United States House of Representatives).¹⁸⁴ Around 11 percent are non-profit organizations such as the Hudson

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

¹⁷⁹ Waijiaobu Fayanren Bangongshi (@xws4_fmprc) (外交部发言人办公室) [Ministry of Foreign Affairs Spokesperson’s Office], *Waijiaobu Fayanren Xuanbu Zhongfang dui Pengpeiao Deng Ren Shishi Zhicai* (外交部发言人宣布中方对蓬佩奥等人实施制裁) [Foreign Ministry Spokesperson Announces China’s Sanctions on Pompeo and Others], Ministry of Foreign Affairs WeChat Official Account (Jan. 20, 2021), <https://mp.weixin.qq.com/s/cjkoTos8mv5Khd3mxIYJQ> [<https://perma.cc/ED4R-7NBU>] (China).

¹⁸⁰ *Id.*

¹⁸¹ Ministry of Foreign Affairs WeChat Official Account, *supra* note 173.

¹⁸² *Id.*

¹⁸³ Spokesperson’s Remarks, Foreign Ministry Spokesperson’s Remarks on China’s Decision to Impose Sanctions on Relevant US Individuals and Entity, Ministry of Foreign Affairs of the People’s Republic of China (Jul. 23, 2021), https://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/2535_665405/202107/t20210723_9170832.html [<https://perma.cc/B7PM-U8E5>].

¹⁸⁴ Spokesperson’s Remarks, Waijiaobu Fayanren Xuanbu Zhongfang dui Meiguo Guohui Yizhang Peiluoxi Shishi Zhicai (外交部发言人宣布中方对美国国会议长佩洛西实施制裁) [The Spokesperson of the Ministry of Foreign Affairs Announced that China Has Imposed Sanctions on Speaker of the House of Representatives Nancy Pelosi of the United States], Ministry of Foreign Affairs of the People’s Republic of China (Aug. 5, 2022), https://www.mfa.gov.cn/web/fyrbt_673021/dhdw_673027/202208/t20220805_10735491.shtm [<https://perma.cc/7DG9-M9JJ>] (China).

Institute¹⁸⁵ and the Ronald Reagan Presidential Library.¹⁸⁶ Only two entities (7 percent) are companies: Lockheed Martin¹⁸⁷ and Raytheon Technologies.¹⁸⁸ China sanctioned these entities for “their interference with Chinese domestic affairs,” including Hong Kong, Taiwan, and Xinjiang-related issues.¹⁸⁹

Notably, the Chinese government sanctioned two companies and five individuals twice. As previously mentioned, the Chinese government sanctioned Lockheed Martin and Raytheon Technologies before the promulgation of the Anti-Foreign Sanctions Law. After the promulgation of the Anti-Foreign Sanctions Law, the MFA sanctioned these two companies again for their arms sales to Taiwan. Like the previous time, the MFA did not disclose the specific sanctions measures when sanctions were imposed.¹⁹⁰ Wilbur Louis Ross,¹⁹¹ Carolyn Bartholomew,¹⁹² Jonathan Stivers,¹⁹³ DoYun Kim,¹⁹⁴ and Adam Joseph King¹⁹⁵ were sanctioned by the Chinese government twice with the same sanctions measures for the same reasons of U.S. “groundlessly smear[ing] Hong Kong’s business environment and illegally imposing sanctions on several officials of the Liaison Office of the Central People’s Government in the Hong Kong SAR,” on July 23, 2021¹⁹⁶ and December 30, 2021.¹⁹⁷

Nearly two and a half years after the enactment of the Provisions on the Unreliable Entity List, at the time of completing data collection, the Chinese government has undertaken sanctions measures against just two firms under the Provision: Lockheed Martin Corporation and Raytheon Missiles & Defense.¹⁹⁸ Notably, this was the third time that the Chinese government took sanctions measures against these two companies for the same reason: arms sales to Taiwan. Under the Provisions on Unreliable Entity List, the sanctions measures against Lockheed Martin Corporation and Raytheon Missiles & Defense

¹⁸⁵ *China Takes Countermeasures against Hudson Institute, Reagan Library, Four Individuals*, XINHUA (Apr. 7, 2023), <https://english.news.cn/20230407/7e79460863514dd8adbde76c8746b7ef/c.html> [<https://perma.cc/AVH4-AEXM>].

¹⁸⁶ *Id.*

¹⁸⁷ MINISTRY OF FOREIGN AFF. OF THE PEOPLE’S REP. OF CHINA, *supra* note 173.

¹⁸⁸ *Id.*

¹⁸⁹ *Supra* notes 173, 175, 183, 184, 185.

¹⁹⁰ MINISTRY OF FOREIGN AFF. OF THE PEOPLE’S REP. OF CHINA, *supra* note 173.

¹⁹¹ Former U.S. Secretary of Commerce. See Regular Press Conference, Foreign Ministry Spokesperson Zhao Lijian’s Regular Press Conference on December 30, 2021, MINISTRY OF FOREIGN AFF. OF THE PEOPLE’S REP. OF CHINA (Dec. 30, 2021), https://www.fmprc.gov.cn/eng/xwfw_665399/s2510_665401/2511_665403/202112/t20211230_10477568.html [<https://perma.cc/4K9J-46PJ>]; and *China to Impose Sanctions on Seven U.S. Individuals, Entity*, XINHUA (Jul. 24, 2021), http://www.xinhuanet.com/english/2021-07/24/c_1310081357.htm [<https://perma.cc/JD35-UVNL>].

¹⁹² Chairman of U.S.-China Economic and Security Review Commission. *Id.*

¹⁹³ Former Staff Director of Congressional-Executive Commission on China. XINHUA, *supra* note 191.

¹⁹⁴ DoYun Kim at National Democratic Institute for International Affairs. XINHUA, *supra* note 191.

¹⁹⁵ Senior Program Manager of the International Republic Institute. XINHUA, *supra* note 191.

¹⁹⁶ XINHUA, *supra* note 191.

¹⁹⁷ MINISTRY OF FOREIGN AFF. OF THE PEOPLE’S REP. OF CHINA, *supra* note 191.

¹⁹⁸ Note that only Raytheon Missiles & Defense was sanctioned under the Provisions on the Unreliable Entity List, not “Raytheon Technologies.”

include banning the two companies from China-related trade and new investments, denying entry and revoking visas for their senior management, and fining each company twice the amount of their arms sales to Taiwan since the Unreliable Entity List was implemented.¹⁹⁹

C. *Russia: Tell Companies to Stay and Foreign Officials to Go Away*

Before the 2022 full-scale invasion of Ukraine, Russia exercised restraint in applying counter-sanctions measures. However, following the onset of the war, Russia began to actively implement such measures. Despite the enactment of the law, “On Measures (Countermeasures) in Response to Unfriendly Actions of the USA and/or Other Foreign States,” in June 2018, Russia had imposed only three sets of sanctions targeting Ukrainian entities and European individuals before the invasion of Ukraine in February 2022. Russia had imposed sanctions primarily during its invasion of Crimea, indicating a restrained application of sanctions before the conflict intensified.²⁰⁰ However, after the onset of the ongoing war in Ukraine, Russia sanctioned thousands of individuals and hundreds of entities in response to the unprecedented wave of sanctions targeting various aspects of the Russian economy. Since February 24, 2022, more than thirty countries, including the United States, the United Kingdom, and Japan, have imposed sweeping sanctions against Russia. The sanctions measures include cutting energy imports, blocking financial transactions, imposing travel bans, and halting exports of key elements such as semiconductors and electronics.²⁰¹ Russia, in response, imposed a series of sanctions measures, including travel bans²⁰² and restrictions on foreign currency

¹⁹⁹ Bukekao Shiti Qingdan Gongzuo Jizhi Gonggao [2023] 1 Hao (不可靠实体清单工作机制公告 (2023) 1号) [Unreliable Entity List Working Mechanism Announcement Order No. 1 2023], Ministry of Commerce (Feb. 16, 2023), <http://www.mofcom.gov.cn/article/zwgk/gkzcfb/202302/20230203391289.shtml> [<https://perma.cc/4NRH-KJ6M>] (China).

²⁰⁰ *Measures to Implement Presidential Executive Order on Special Economic Measures in Connection with Ukraine’s Unfriendly Actions towards Citizens and Legal Entities of the Russian Federation*, THE RUSSIAN GOVERNMENT (Nov. 1, 2018), <http://government.ru/en/docs/34529/> [<https://perma.cc/6C5M-WPT8>]; *Postanovleniye Pravitel’sstva Rossiyskoy Federatsii ot 25.12.2018 g. № 1656* [Decree of the Government of the Russian Federation of December 25, 2018 No. 1656], *Pravitel’sstva Rossiyskoy Federatsii* [Government of the Russian Federation], Dec. 25, 2018, No. 1656, <http://government.ru/docs/all/120233/> [<https://perma.cc/3QHN-MUQZ>]; News, *Ob Otvetnom rossiyskom Spiske Predstaviteley Stran-chlenov YES i Yevroinstitutov, Kotorym Zapreshchen V’yezd na Territoriyu Rossiyskoy Federatsii* [On the Response to the Russian List of Representatives of EU Member States and European Institutions Prohibited from Entering the Territory of the Russian Federation], *Ministerstvo Inostrannykh del Rossiyskoy Federatsii* [Ministry of Foreign Affairs Of the Russian Federation] (Jan. 28, 2022), https://www.mid.ru/ru/foreign_policy/news/1796301/ [<https://perma.cc/MFU5-DPLR>] (Russ.).

²⁰¹ U.S. Embassy Tbilisi, *International Sanctions Are Working: Russia Feels Economic Pressure, U.S. Embassy in Georgia* (Aug. 16, 2022), <https://ge.usembassy.gov/international-sanctions-are-working-russia-feels-economic-pressure/> [<https://perma.cc/Q8JX-YJHA>]; Scott R. Anderson, et. al., *What Sanctions Has the World Put on Russia?*, *LAWFARE* (Mar. 4, 2022), <https://www.lawfaremedia.org/article/what-sanctions-has-world-put-russia> [<https://perma.cc/JCS4-F6VQ>].

²⁰² E.g., *Zayavleniye MID Rossii o Personal’nykh Sanktsiyakh v Otnoshenii Politikov, Zhurnalistov i Biznesmenov Velikobritanii* [Statement by the Russian Foreign Ministry on Personal Sanctions against UK Politicians, Journalists and Businessmen], *MINISTERSTVO*

transactions.²⁰³

Similar to my data collection for China, my data collection has found that Russia's sanctions lists' measures primarily targeted individuals (around 95 percent), rather than commercial organizations and companies (around 5 percent). Russia has added thousands of individuals to its "stop list," which forbids these individuals from entering Russian territory. More than 80 percent of Russia's sanctions measures were travel bans on government officials or their relatives. For example, U.S. President Joe Biden²⁰⁴ and U.K. Prime Minister Boris Johnson²⁰⁵ were added to the "stop list." Around 12 percent of sanctions are travel bans on senior executives of multinational companies. Following announcements by multinational corporations, including Microsoft²⁰⁶ and Meta,²⁰⁷ to either withdraw from or suspend their operations in Russia, the Russian government responded by imposing sanctions on the CEOs of these companies and prohibiting their entry into Russian territory. The Russian Foreign Ministry said in a news release that "[i]n response to the ongoing imposition of anti-Russian sanctions by the United States and following requests for information regarding the individuals on Russia's national 'stop list,' the Russian

INOSTRANNYKH DEL ROSSIYSKOY FEDERATSII [Ministry of Foreign Affairs of the Russian Federation] (Aug. 1, 2022), https://www.mid.ru/ru/foreign_policy/news/1824627/ [<https://perma.cc/ZEN6-3P2G>]; Zayavleniye MID Rossii ob Otvetnykh Merakh v Otnoshenii Chlenov Palaty Predstaviteley Parlamenta Yaponii [Statement by the Russian Ministry of Foreign Affairs on Retaliatory Measures against Members of the House of Representatives of the Japanese Parliament], MINISTERSTVO INOSTRANNYKH DEL ROSSIYSKOY FEDERATSII [Ministry of Foreign Affairs of the Russian Federation] (Jul. 15, 2022), https://mid.ru/ru/foreign_policy/news/1822249/ [<https://perma.cc/4KCR-2TNC>]; Zayavleniye MID Rossii v Svyazi s Vvedeniyem Personal'nykh Sanktsiy v Otnoshenii Grazhdan SSHA [Statement by the Russian Ministry of Foreign Affairs in Connection with the Introduction of Personal Sanctions against US Citizens], MINISTERSTVO INOSTRANNYKH DEL ROSSIYSKOY FEDERATSII [Ministry of Foreign Affairs of the Russian Federation] (Apr. 12, 2022), https://mid.ru/ru/foreign_policy/news/1810337/ [<https://perma.cc/8MZ2-8TPH>] (Russ.).

²⁰³ E.g., Ukaz o Primenenii Spetsial'nykh Ekonomicheskikh Mer v Svyazi s Nedruzhestvennymi Deystviyami SSHA i Primknvshikh k Nim Inostrannykh Gosudarstv i Mezhdunarodnykh Organizatsiy [Decree on the Application of Special Economic Measures in Connection with Unfriendly Actions of the United States and Foreign States and International Organizations that Have Joined Them] (Feb. 28, 2022), <http://kremlin.ru/events/president/news/67881> [<https://perma.cc/2GWK-5CCX>] (Russ.).

²⁰⁴ *Karta Mira* [World Map], *Soyedinennyye Shtaty Ameriki (SSHA)* [United States of America (USA)], MINISTERSTVO INOSTRANNYKH DEL ROSSIYSKOY FEDERATSII [Ministry of Foreign Affairs of the Russian Federation] (Aug. 2, 2023), <https://www.mid.ru/ru/maps/us/1814243/> [<https://perma.cc/A3J7-TUZK>] (Russ.).

²⁰⁵ News, Zayavleniye MID Rossii o Personal'nykh Sanktsiyakh v Otnoshenii Rukovodstva Velikobritanii [Statement by the Russian Foreign Ministry on personal Sanctions Against the Leadership of the UK], MINISTERSTVO INOSTRANNYKH DEL ROSSIYSKOY FEDERATSII [Ministry of Foreign Affairs of the Russian Federation] (Apr. 16, 2022), https://www.mid.ru/ru/foreign_policy/news/1809607/ [<https://perma.cc/2W89-7P58>] (Russ.).

²⁰⁶ Brad Smith, *Microsoft Suspends New Sales in Russia*, MICROSOFT (Mar. 4, 2022, updated Mar. 23, 2022), <https://blogs.microsoft.com/on-the-issues/2022/03/04/microsoft-suspends-russia-sales-ukraine-conflict/> [<https://perma.cc/U84J-X7BV>].

²⁰⁷ Elizabeth Culliford, *Facebook Owner Meta Will Block Access to Russia's RT, Sputnik in EU*, REUTERS (Feb. 28, 2022), <https://www.reuters.com/business/media-telecom/facebook-owner-meta-will-block-access-russias-rt-sputnik-eu-2022-02-28/> [<https://perma.cc/69U2-3ACT>].

Foreign Ministry has released a list of American citizens who are prohibited from entering the country.”²⁰⁸ This list is intended to be a permanent ban on these individuals entering the Russian Federation.”²⁰⁹

Around 5 percent of Russian sanctions measures are against companies or organizations. Unlike U.S. coercive sanctions that forbid sanctioned entities from doing business in the U.S., some Russian sanctions measures require multinational companies to stay in the Russian market and restrict them from withdrawing investment in Russia. In May 2022, Russia enacted Decree No. 520,²¹⁰ which requires multinational companies to obtain the Russian president’s approval for selling their assets in Russia. In December, the Russian government introduced new criteria for foreign companies seeking to exit the market, mandating an asset valuation prior to sale, enforcing a minimum discount of 50 percent on those assets, and requiring a “voluntary” donation of 10 percent of the total transaction value to the state budget.²¹¹ These stringent and costly requirements have significantly slowed the withdrawal of foreign businesses, leading some to question their ability to exit the Russian market effectively.

In March 2022, Russia introduced regulations permitting domestic companies to utilize foreign intellectual property from “unfriendly countries” without compensation, although in practice, these measures are applied in a limited number of cases. In March 2022, Russia enacted decree No. 299, which allowed Russian companies to use intellectual property originating from “unfriendly countries”²¹² without paying any compensation. Upon its announcement, this decree unsettled numerous multinational corporations.²¹³ However, when applied in practice, the implementation of this general rule was limited to a few specific scenarios: the Russian government created a list of exceptions where intellectual property protections, including those for inventions, utility models,

²⁰⁸ Zayavleniye MID Rossii v Svyazi s Vvedeniyem Personal’nykh Sanktsiy v Otnoshenii Grazhdan SSHA [Statement of the Russian Foreign Ministry in Connection with the Introduction of Personal Sanctions Against US Citizens], MINISTERSTVO INOSTRANNYKH DEL ROSSIYSKOY FEDERATSII [Ministry of Foreign Affairs of the Russian Federation] (Apr. 21, 2022), https://mid.ru/ru/foreign_policy/news/1810337/ [<https://perma.cc/2T9T-M97D>] (Russ.).

²⁰⁹ *Id.*

²¹⁰ O Primenenii Spetsial’nykh Ekonomicheskikh Mer v Finansovoy i Toplivno-energeticheskoy Sferakh v Svyazi s Nedruzhestvennyimi Deystviyami Nekotorykh Inostrannykh Gosudarstv i Mezhdunarodnykh Organizatsiy [On Application of Special Economic Measures in Financial and Fuel and Energy Sectors in Connection with Unfriendly Actions of Certain Foreign States and International Organizations], Decree of the President of the Russian Federation, No. 520 (Aug. 5, 2022), <http://publication.pravo.gov.ru/Document/View/0001202208050002> [<https://perma.cc/M6T8-PYD2>] (Russ.).

²¹¹ Andrius Tursa, *Russia: The Challenges and Risks of (not) Exiting the Russian Market*, TENEO (Mar. 7, 2023), <https://www.teneo.com/russia-the-challenges-and-risks-of-not-exiting-the-russian-market/> [<https://perma.cc/SX5Z-F9B2>].

²¹² O Vnesenii Izmeneniya v Punkt 2 Metodiki Opredeleniya Razmera Kompensatsii, Vyplachivayemoy Patentoobladatelyu Pri Prinyatii Resheniya ob Ispol’zovanii Izobreteniya, Poleznoy Modeli ili Promyshlennogo Obraztsa Bez Yego Soglasiya, i Poryadka Yeye Vyplaty [On Amending Item 2 of the Methodology of Calculation of Compensation’s Amount to Be Paid to Patent Owner Resulted In Decision to Use Invention, Utility Model or Industrial Design without Patent Owner’s Consent, and Procedure of Its Payment], Decree of the Government of the Russian Federation, No. 299 (Mar. 6, 2022), <http://publication.pravo.gov.ru/Document/View/0001202203070005> [<https://perma.cc/7LFH-9YLT>] (Russ.).

²¹³ *Id.*

industrial designs,²¹⁴ and trademark rights,²¹⁵ would not apply. In June 2022, the Russian government enacted Federal Law No. 213-FZ, which eliminates the legal consequences for infringing intellectual property rights concerning specific goods.²¹⁶ This exemption is narrowly tailored to permit parallel imports—a practice that is stringently regulated worldwide—of certain goods,²¹⁷ limiting where such imports are allowed.²¹⁸ Though more items exempt from intellectual protection may be added to this list, by now, there seems to be no discussion among the Russian government officials that they intended to add more items.²¹⁹

Finally, Russia did implement certain measures that caused economic strain, although the effectiveness of many of these measures remains uncertain. For example, two of Russia's (anti)sanctions measures were designed to inflict economic harm: banning gas exports to specific countries to compel them to revoke sanctions against Russia, and sanctioning entities involved in transporting Russian gas to Europe. Although these measures suggest a significant economic impact, a closer examination reveals that they have not effectively caused the intended harm. The prohibition on gas exports and sanctions against pipeline owners and Gazprom's former European units, crucial for Europe's gas supply, have not yielded the desired outcome, underscoring the complexity and limited effectiveness of these measures.²²⁰ In December 2022, the Russian government banned multiple pipeline owners, including Gazprom Germania, from conducting gas business. Russia did so to “respond to steps taken by the United States in league with other foreign states and international organizations, which are unfriendly and run counter to international law and are aimed at imposing restrictive measures on the citizens of the Russian Federation and Russian legal

²¹⁴ Article 1359—Actions that are Not Infringing the Exclusive Rights to an Invention, Utility Model, or Industrial Design—which disallows the import to Russia, use, marketing, sale, commercial transacting with, or storage of a product in which an invention, utility model or industrial design is used without consent by the IP holder. See *Grazhdanskiĭ Kodeks Rossiĭskoi Federatsii* [GK RF] [Civil Code], Ch. 72, § 2. Patent Rights (Russ.).

²¹⁵ Article 1487—Exhaustion of the Trademark Right—which disallows the use of a third-party trademark without the trademark owner's consent. *Id.*

²¹⁶ Federal'nyy zakon ot 28.06.2022 № 213-FZ “O vnesenii izmeneniya v stat'yu 18 Federal'nogo zakona “O vnesenii izmeneniy v otdel'nyye zakonodatel'nyye akty Rossiyskoy Federatsii” [Federal Law of June 28, 2022 No. 213-FZ “On Amendments to Article 18 of the Federal Law “On Amendments to Certain Legislative Acts of the Russian Federation”], *Ofitsial'noye opublikovaniye pravovykh aktov* [Official Publication of Legal Acts] (Jun. 28, 2022), <http://publication.pravo.gov.ru/Document/View/0001202206280053> [<https://perma.cc/G8JW-WBCQ>] (Russ.).

²¹⁷ Certain goods include: perfumes and cosmetics, personal care products, watches, articles made of plastic, rubber, non-precious metals and some other product groups. See Blog, *IP and Anti-Sanctions Measures in Russia: Myths and Reality*, A.ZALESOV & PARTNERS PATENT & LAW FIRM (Jul. 29, 2022), <https://azalesov.com/analytics/blog/ip-and-anti-sanctions-measures-in-russia-myths-and-reality-3> [<https://perma.cc/WR7H-75US>].

²¹⁸ *Id.*

²¹⁹ *Id.*

²²⁰ For detailed list, please see *O Merakh po Realizatsii Ukaza Prezidenta Rossiyskoy Federatsii ot 3 Maya 2022 g. № 252* [On Measures to Implement the Decree of the President of the Russian Federation of May 3, 2022 No. 252], Decree of the Government of the Russian Federation, No. 851 (May 11, 2022), <http://publication.pravo.gov.ru/Document/View/0001202205110017> [<https://perma.cc/447U-ZJSP>] (Russ.).

entities.”²²¹ As a result, gas exports from Russian state energy giant Gazprom to Switzerland and the EU fell by 55 percent in 2022,²²² and European countries are finding alternative ways to obtain gas, such as from Qatar.²²³ After Russia cut part of its gas supply to Europe, the European Union did not stop sanctioning Russia. In February 2023, the European Union announced the tenth package of sanctions, which included an additional eighty-seven individuals and thirty-four entities to the EU’s sanctions list.²²⁴

D. Non-Coercive Nature of China’s and Russia’s (Anti)sanctions Enforcement

The enforcement of sanctions by China and Russia is largely non-coercive and performative in that they typically fail to cause economic harm to change the behavior of their targets.²²⁵ This approach is exemplified by their limited focus on corporations and by the repetitive targeting of the same entities. While China has sanctioned two companies—Lockheed Martin Corporation and Raytheon Technologies—by prohibiting them from engaging in business activities related to mainland China and imposing fines, closer scrutiny reveals that such measures may have not inflicted substantial economic harm. As suggested in its recent annual reports, Lockheed Martin Corporation’s main business has been in the United States and Europe, and it has not established considerable market shares in mainland China.²²⁶ Similarly, Raytheon Technologies’ past three annual reports have not indicated military business with

²²¹ Executive Order on Applying Special Economic Measures with Regard to Natural Gas Supplies in Response to Unfriendly Actions by Some Countries and International Organizations, President of Russia (Dec. 22, 2022), <http://en.kremlin.ru/acts/news/70171> [<https://perma.cc/RG4Z-RA44>].

²²² Natasha Turak, *Russian Gas Will Eventually Return to Europe as Nations ‘Forgive and Forget,’ Qatari Energy Minister Says*, CNBC (Jan. 16, 2023), <https://www.cnbc.com/2023/01/16/russian-gas-will-eventually-return-to-europe-as-nations-forgive-and-forget-qatari-energy-minister-says.html> [<https://perma.cc/9KNX-EDLE>].

²²³ Patrick Wintour, *Germany Agrees 15-Year Liquid Gas Supply Deal with Qatar*, THE GUARDIAN (Nov. 29, 2022), <https://www.theguardian.com/world/2022/nov/29/germany-agrees-15-year-liquid-gas-supply-deal-with-qatar> [<https://perma.cc/8P2Y-BMEU>].

²²⁴ Press Release, Council of the European Union, *10th Package of Sanctions on Russia’s War of Aggression Against Ukraine: the EU Includes Additional 87 Individuals and 34 Entities to the EU’s Sanctions List* (Feb. 25, 2023), <https://www.consilium.europa.eu/en/press/press-releases/2023/02/25/10th-package-of-sanctions-on-russia-s-war-of-aggression-against-ukraine-the-eu-includes-additional-87-individuals-and-34-entities-to-the-eu-s-sanctions-list/> [<https://perma.cc/5TZL-X4W4>].

²²⁵ It is worth noting that Russia and China did not act in exactly the same manner. Upon analysis, Russia did implement certain sanctions measures that caused economic harm.

²²⁶ 2020 ANNUAL REPORT, LOCKHEED MARTIN CORPORATION (2020), <https://www.lockheed-martin.com/content/dam/lockheed-martin/eo/documents/annual-reports/lockheed-martin-annual-report-2020.pdf> [<https://perma.cc/AU6D-7PQD>]; 2021 ANNUAL REPORT, LOCKHEED MARTIN CORPORATION (2021), <https://www.lockheedmartin.com/content/dam/lockheed-martin/eo/documents/annual-reports/lockheed-martin-annual-report-2021.pdf> [<https://perma.cc/X6XC-UWGJ>]; 2022 ANNUAL REPORT, LOCKHEED MARTIN CORPORATION (2022), <https://www.lockheedmartin.com/content/dam/lockheed-martin/eo/documents/annual-reports/lockheed-martin-annual-report-2022.pdf> [<https://perma.cc/T66M-UV3S>]; Lawrence Chung, *Beijing’s Sanctions on Lockheed Martin Diplomatic But Not Damaging, Observers Say*, S. CHINA MORNING POST (Jul. 15, 2020), <https://www.scmp.com/news/china/military/article/3093306/beijings-sanctions-lockheed-martin-diplomatic-not-damaging> [<https://perma.cc/4U48-TEJG>].

mainland China.²²⁷ From the above analysis, imposing restrictions on business dealings with mainland China is likely to have minimal effects on operations of Lockheed Martin Corporation and Raytheon Technologies. As for the fines imposed on these companies, no public information suggests these two companies have paid anything to the Chinese government yet. Instead, according to China's popular news websites, such as Sohu News²²⁸ and NetEase News,²²⁹ these two companies appear to show no inclination toward settling fines. Similarly, in general, Russia has not inflicted economic harm on companies whose countries that have imposed sanctions on Russia. Rather, Russia's countermeasures were chiefly aimed at deterring multinational companies from withdrawing from the Russian market. These actions may not directly reduce the business revenue these companies generate for the Russian government. Russia's sanctions against the heads of multinational companies were travel bans.²³⁰ These restrictions may be unlikely to exert significant economic pressure, as they do not directly affect the day-to-day operations of these companies.

China's and Russia's sanctions predominantly target foreign government officials, who appear largely unaffected by these measures. Although it is challenging to determine from public sources whether these officials have economic connections with Russia and China, the impact of Chinese and Russian sanctions on these individuals appears to be less significant compared to those imposed by the United States. For example, after the United States sanctioned Carrie Lam, the fourth Chief Executive of Hong Kong, for "developing, adopting, or implementing the Law of the PRC on Safeguarding National Security in the Hong Kong Special Administrative Region,"²³¹ Carrie Lam has stated that U.S. sanctions have significantly impacted her financially, requiring her to make all purchases in cash because her credit cards became ineffective as a

²²⁷ 2022 ANNUAL REPORT, RAYTHEON TECHNOLOGIES (2022), <https://investors.rtx.com/static-files/765e55a0-fe27-4a6c-b5ac-649cf6fa71cc> [<https://perma.cc/K7WM-KNFN>]; 2021 ANNUAL REPORT, RAYTHEON TECHNOLOGIES (2021), <https://investors.rtx.com/static-files/d6a4fbd3-d8df-40dd-b278-019fb954dfc0> [<https://perma.cc/FPE7-X5DV>]; 2020 ANNUAL REPORT, RAYTHEON TECHNOLOGIES (2020), <https://investors.rtx.com/static-files/388740f3-c415-46f1-a0c0-6c3cca1e5b49> [<https://perma.cc/VG3E-JXB8>]; *China Hits Back at US with Sanctions on Lockheed, Raytheon*, BLOOMBERG (Feb. 16, 2023), <https://www.bloomberg.com/news/articles/2023-02-16/china-sanctions-lockheed-raytheon-over-arms-sales-to-taiwan?embedded-checkout=true> [<https://perma.cc/YP92-5YC8>].

²²⁸ 3 Hao Fangwu Shiye (3号防务视野), *Zhongguo Zhicai Wuxiao? Liang Meiqi Qianyi Fakuan Fenwen Bujiao, Zhongfang Xia Yibu huo Tongji qi Cun* (中国制裁无效? 两美企千亿罚款分文不缴, 中方下一步或痛击其七寸) [Are China's Sanctions Ineffective? Two U.S. Companies Have Not Paid a Penny of Hundreds of Billions in Fines, and China May Hit Them Seven Inches in the Next Step], SOHU.COM (Mar. 7, 2023), https://www.sohu.com/a/650704337_121379719 [<https://perma.cc/3QMH-7JQY>] (China).

²²⁹ Qingtian Ai Yule (晴天爱娱乐), *Luoma he Leishen Bujiao Fakuan, Gai Ruhe Yingdui* (洛马和雷神不交罚款, 该如何应对) [Lockheed Martin and Raytheon Do Not Pay the Fine, How to Deal with It], 163.COM (Mar. 5, 2023), <https://www.163.com/dy/article/HV3LG1RO05371MZD.html> [<https://perma.cc/BJ68-AGCT>] (China).

²³⁰ While these CEOs may possess assets in Russia, in such instances, the economic impact resulting solely from a travel ban appears to be minimal.

²³¹ Press Release, U.S. Dep't of Treasury, *Treasury Sanctions Individuals for Undermining Hong Kong's Autonomy* (Aug. 7, 2020), <https://home.treasury.gov/news/press-releases/sm1088> [<https://perma.cc/D5FA-CEH6>].

result of the sanctions.²³² Similarly, sanctions from the U.S. and European countries have greatly impacted Russian elites' wealth and economic activities.²³³ Contrary to the detailed reports on Carrie Lam's financial inconveniences due to U.S. sanctions, there have been no similar accounts concerning the personal or daily lives of U.S. officials targeted by China's and Russia's sanctions. Instead, many of these individuals reported feeling a sense of pride rather than harm from being sanctioned. For example, Senator Tom Cotton, after being sanctioned by the Chinese government, posted on his official website: "[t]he Chinese Communist Party imposed these impotent sanctions against me because I defend the real victims of Chinese Communism [If] China thinks my opposition to its communist tyranny to date warrants these sanctions, I have two words for them: just wait."²³⁴ Similarly, after finding out she was added to Russia's sanctions list, former Secretary of State Hillary Clinton posted on Twitter: "I want to thank the Russian Academy for this Lifetime Achievement Award."²³⁵

Some of China's and Russia's sanctions measures were ambiguous and not disclosed, and Russia and China have not released enforcement measures to clarify the ambiguities. For example, around 28 percent of the sanctions measures announced by China's MFA did not include details. For the sanctions for which the Chinese government disclosed specific measures, some details remained vague. The Chinese government sanctioned some "family members" of sanctioned government officials and barred them from entering China.²³⁶ However, in the announcement, China did not clarify what "family member" means. Similarly, Russia instructed Russian companies not to pay intellectual property fees to companies from "unfriendly countries" for goods listed by the government. However, it did not initially specify the listed goods nor the penalties for violating the sanctions. After the announcement of the vague sanctions measures, it took some time for Russia to clarify details of the sanctions.²³⁷ Such

²³² *'Piles of Cash at Home': Hong Kong Leader Says US Sanctions Mean She Has No Bank Account*, THE GUARDIAN (Nov. 28, 2020), <https://www.theguardian.com/world/2020/nov/28/hong-kong-carrie-lam-cash-bank-account-us-sanctions> [<https://perma.cc/ECN3-ZF3K>].

²³³ See. REBECCA M. NELSON, CONG. RSCH. SERV., IF12092, THE ECONOMIC IMPACT OF RUSSIA SANCTIONS (2022), <https://crsreports.congress.gov/product/pdf/IF/IF12092> [<https://perma.cc/V884-NUZ5>].

²³⁴ Press Release, Tom Cotton, *Cotton Reacts to Chinese Sanctions* (Aug. 10, 2020), <https://www.cotton.senate.gov/news/press-releases/cotton-reacts-to-chinese-sanctions> [<https://perma.cc/GZ6D-4DYM>].

²³⁵ Hillary Clinton (@HillaryClinton), TWITTER (Mar. 15, 2022), https://twitter.com/HillaryClinton/status/1503752794158911493?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1503752794158911493%7Ctwgr%5E%7Cwcon%5Es1_&ref_url=https%3A%2F%2Fthehill.com%2Fblogs%2Fin-the-know%2Fin-the-know%2F598292-hillary-clinton-thanks-russia-for-lifetime-achievement-award-of [<https://perma.cc/VY8M-6W4R>].

²³⁶ Xinhua, *China Imposes Sanctions against US Individual over Religious Issues*, THE STATE COUNCIL INFO. OFF. OF THE PEOPLE'S REPUBLIC OF CHINA (May 27, 2021), http://english.scio.gov.cn/pressroom/2021-05/27/content_77530841.htm [<https://perma.cc/S94M-XTAT>].

²³⁷ *MER Rossii Obsuzhdayet Snyatiye Ogranicheniy na Ispol'zovaniye Intellektual'noy Sobstvennosti* [The Ministry of Economic Development of Russia Discusses the Removal of Restrictions on the Use of Intellectual Property], TASS (Mar. 5, 2022), <https://tass.ru/ekonomika/13982403> [<https://perma.cc/8US8-38GT>] (Russ.).

ambiguities make it difficult for Russian entities and non-Russian entities to obey the sanctions measures. In summary, a detailed analysis of the enforcement of China's and Russia's sanctions reveals they are predominantly non-coercive, causing minimal economic impact.

IV. ALTERNATIVE DIMENSION: PERFORMATIVE ECONOMIC SANCTIONS

As demonstrated in Part I, prevailing theories on sanctions emphasize their coercive nature by highlighting the use of economic harm. This harm aims to compel target entities to alter their behaviors and policies, or to employ sanctions as a means of costly signaling that exhibits resolve, and demonstrates a willingness to forgo economic interests to uphold specific normative values. Nonetheless, Parts II and III have illustrated that, despite China's and Russia's (anti)sanction laws prescribing measures such as asset freezes that are capable of inflicting economic harm, the actual enforcement of these (anti)sanctions has mostly not resulted in significant economic damage to their targets upon detailed examination. This observation suggests that the traditional theory, which generally posits that sanctions must cause economic harm to be effective, does not adequately account for the nuances of China's and Russia's sanction practices.

In the subsequent section, I will introduce a novel concept: *performative sanctions*. This theory will detail the essence, operational mechanics, and effectiveness of these sanctions, shedding light on their distinctive characteristics, how they are implemented, and the reasons behind their performative characteristics.

A. Drawing on the Performative Legitimacy Theory and Analyzing Its Limitations

My concept of performative sanctions is primarily inspired by performative legitimacy studies of domestic environmental protection regulation. Alex Wang introduced the concept of symbolic governance in China's environment regulation,²³⁸ and Iza Ding developed the idea of the "performative state."²³⁹ They posited that China utilized techniques such as knowledge gaps between experts and populists to *show* effective governance in environmental protection, without producing tangible outcomes.²⁴⁰ Specifically, Wang argues that China's environmental protection reform is not solely focused on achieving tangible policy outcomes, but also functions as a form of performance.²⁴¹ This performance mechanism relies on the fact that populists, who may lack resources or the inclination to delve into the specifics of environmental protection efforts, only require the *impression* that the government is addressing social issues.²⁴² Drawing from Murray Edelman's observations on symbolic politics within the American context, Wang has quoted Edelman's arguments that "[t]he mass

²³⁸ Wang, *supra* note 13.

²³⁹ See IZA DING, THE PERFORMATIVE STATE: PUBLIC SCRUTINY AND ENVIRONMENTAL GOVERNANCE IN CHINA (2022).

²⁴⁰ Wang, *supra* note 13, at 726.

²⁴¹ *Id.*

²⁴² *Id.* at 727–30.

public does not scrutinize and evaluate detailed data Instead, it reacts to symbolic actions that either threaten or reassure, responding to cues from these actions rather than a direct understanding of the facts.”²⁴³ Wang contends that the pursuit of performative legitimacy, particularly in the realm of environmental protection, stems from uncertainties about the outcomes of reforms. The complexity and inherent uncertainties of environmental problems make it challenging for the public to independently assess the nature and effectiveness of these reforms. Consequently, individuals are less likely to concentrate on the critical specifics of the reform efforts. Furthermore, the government may shift public attention away from the actual results of these reforms, and as a result the domestic audiences would not pay much attention to the tangible outcomes of such reforms.²⁴⁴

The concept of performative legitimacy, as explored in sociology, has traditionally been applied to domestic laws aimed at addressing internal social challenges, with a significant focus on environmental protection. This article expands the scope of performative legitimacy by analyzing the (anti)sanctions laws of China and Russia, specifically their enforcement patterns, to uncover how this performative aspect manifests in the realm of transnational issues such as sanctions. I term this phenomenon “performative sanctions.” In the following parts of this Paper, I will explain the mechanisms of “performative sanctions.”

B. Performative Economic Sanctions—What They Are

Drawing on empirical analyses of sanctions practices in China and Russia, I conceptualize performative sanctions as those designed to minimize economic harm to their targets while simultaneously transmitting messages of determination to domestic audiences. Unlike signaling sanctions or symbolic sanctions, which demonstrate resolve through the imposition of economic costs,²⁴⁵ performative sanctions operate through a more nuanced strategy. This approach involves a deliberate mechanism such as a mismatch between the sanctions laws and their actual enforcement, a dynamic I will elaborate on in Part IV.C. Therefore, I suggest we examine performative sanctions through two primary lenses: first, their nature, which is characterized by the limited economic detriment they inflict on their targets, and second, their function, which is to communicate with various domestic stakeholders using intricate methods.

The essence of performative sanctions lies not in exacting tangible economic damage on their targets, but in creating the *perception* among domestic audiences that such harm is possible. This is achieved through the rhetoric of coercion within the laws and language designed to resonate with populist sentiments, thereby conveying the *impression* that the governments are taking decisive action against countries imposing sanctions on China and Russia. The *impression* mechanism has been demonstrated through Erving Goffman’s piece, *The Presentation of Self in Everyday Life*, that human beings “present

²⁴³ *Id.* at 711 (citing MURRAY EDELMAN, *THE SYMBOLIC USES OF POLITICS* 172 (1964)).

²⁴⁴ *Id.* at 716–30.

²⁴⁵ See analysis in Part I in this paper.

[themselves] in a light that is favorable to [themselves].”²⁴⁶ The core of creating positive impressions about individuals often lies not in the actual deeds performed, but in the perception of goodness. Similarly, states employ a governance strategy aimed at convincing domestic audiences of their actions, even in the absence of substantial accomplishments.²⁴⁷ In the context of environmental protection, as analyzed by Alex Wang, the essence of environmental reform is not solely focused on obtaining specific outcomes. Instead, the process of reform itself underscores the concept of performative legitimacy.²⁴⁸ In summary, this approach prioritizes the appearance of action over the execution of tangible measures.

China and Russia have strategically molded public perceptions of their opposition to sanctions through carefully chosen language in their legal frameworks and the wording of their sanctions announcements. This tactic is aimed at tapping into the emotions of a wide range of domestic audiences, delivering a robust message of resistance through sanctions. As explored in Part II, both nations have implemented coercive strategies, including the freezing of assets, as a means to severely penalize those who have levied sanctions against them. This could cultivate among the domestic audiences the *impression* that China and Russia are capable of responding with strength and determination. In their announcements of sanctions, Russia and China use strong descriptive words to appeal to national sentiments, which is a way to retain authority by means of nationalism.²⁴⁹ For example, in a sanctions announcement, the MFA denounced foreign countries’ sanctions as “seriously undermining China’s sovereignty” and expressed the Chinese government’s determination to safeguard its national sovereignty, security, and development interests.²⁵⁰ The MFA spokesperson, when talking about foreign sanctions against China, frequently use strong words such as “foreign countries’ plots to crack down on China,” and “China will do all necessary measures it could to defend its sovereignty and national dignity.”²⁵¹ The comment section beneath the MFA’s announcements, where the public can leave feedback on the MFA’s actions, indicates that the assertive language used seems to successfully resonate with the audience. Commentators have showed very supportive attitudes, such as, “[I] strongly support [China’s

²⁴⁶ GOFFMAN, *supra* note 12, at ch. 1.

²⁴⁷ See EDELMAN, *supra* note 243, at 5.

²⁴⁸ Wang, *supra* note 13.

²⁴⁹ See Andrew J. Nathan, *The Puzzle of Authoritarian Legitimacy*, 31 J. OF DEMOCRACY 158, 158–68 (2020).

²⁵⁰ *Foreign Ministry Spokesperson Announces Sanctions on Relevant UK Individuals and Entities*, CONSULATE-GENERAL OF THE PEOPLE’S REPUBLIC OF CHINA IN CHICAGO (Mar. 26, 2021) http://chicago.china-consulate.gov.cn/eng/fyrth/202103/t20210326_8992994.htm [<https://perma.cc/J7XW-KKDR>].

²⁵¹ E.g., Waijiaobu Fayanren Bangongshi (@xws4_fmprc) (外交部发言人办公室) [Ministry of Foreign Affairs Spokesperson’s Office], *Wang Wenbin: Zhongfang Yi Fa Jinxing Fan Zhicai Lisuodangran* (汪文斌：中方依法进行反制裁理所当然) [Wang Wenbin: China’s Anti-Sanctions Is Legitimate and Appropriate], WECHAT (Jan. 11, 2022), <https://mp.weixin.qq.com/s/guTIM3bdnrPZNrjsxnsx8g> [<https://perma.cc/EJS5-B3Q8>] (China).

sanctions]!”²⁵² “The pursuit of Taiwan independence is a dead end. Taiwan forever belongs to China!”²⁵³ “China has declared sanctions against American institutions and individuals who have acted in a reprehensible manner. Well done!”²⁵⁴ “The Xinjiang affairs are purely China’s internal affairs. The United States has no right, no qualification to interfere arbitrarily.”²⁵⁵ In the case of Russia, the Kremlin’s spokespeople have continually blamed Western sanctions for “destroying” the Russian people’s quality of life. In response, Russia implemented (anti)sanctions measures to mitigate the impacts of sanctions against Russia and to “bring back good life to Russian people.”²⁵⁶ Russian media described U.S. and European sanctions as a “beast showing its fangs” and reported Russia’s (anti)sanctions as “Russia’s ways to overcome problems and courageously face the enemy.”²⁵⁷ A caveat is that China and Russia lack the same level of media oversight found in Western states; therefore, the above-mentioned publicly available comments may not fully represent the sentiments of all populations. However, these comments do at least indicate a trend in public opinion.

For the political elites, China’s and Russia’s (anti)sanctions pacified and protected elites who were sanctioned by foreign countries. More than 80 percent of Chinese (anti)sanctions measures responded to foreign sanctions against high-ranking Chinese government officials. For example, China sanctioned thirty-one entities (around 38 percent of all Chinese sanctions measures) in March 2021²⁵⁸ in response to sanctions measures against four Chinese government officials. Alleging human rights violations in Xinjiang, the United

²⁵² Waijiaobu Fayaren Bangongshi (@xws4_fmprc) (外交部发言人办公室) [Ministry of Foreign Affairs Spokesperson’s Office], *Meifang Xiang Taiwan Diqu Shou Wu Waijiaobu Xuanbu Dui Mei Shishi Zhicai* (美方向台湾地区售武 外交部宣布对美实施制裁) [America Has Sold Arms to Taiwan The Ministry of Foreign Affairs Announces Sanctions against America], WECHAT (Oct. 26, 2022), https://mp.weixin.qq.com/s/OUNu5M1URaji1m9nlq_E2Q [<https://perma.cc/E4CX-XTGU>] (China).

²⁵³ *Id.*

²⁵⁴ Waijiaobu Fayaren Bangongshi (@xws4_fmprc) (外交部发言人办公室) [Ministry of Foreign Affairs Spokesperson’s Office], *Zhongfang Xuanbu dui zai Shejiang Wenti Shang Biaoxian Elie de Mei Jigou he Renyuan Shishi Xiangying Zhicai* (中方宣布对在涉疆问题上表现恶劣的美机构和人员实施相应制裁) [China Announces to Impose Sanctions on U.S. Institutions and Personnel Who Have Behaved Badly on Xinjiang Issues], WECHAT (Jul. 13, 2020), <https://mp.weixin.qq.com/s/sDqTaPfWrT1NJUKb-MsDAw> [<https://perma.cc/8TKS-YBDY>] (China).

²⁵⁵ *Id.*

²⁵⁶ Anna Kuznetsova, *Ot Sanktsiy do Posledstviy: Kak Rossiya Zhivet Pod Davleniyem Zapada* [From Sanctions to Consequences: How Russia Lives Under Pressure from the West], BALNEWS (Sept. 24, 2022), https://baltnews.com/Russia_West/20220924/1025743802/Ot-sanktsiy-do-posledstviy-kak-Rossiya-zhivet-pod-davleniem-Zapada.html [<https://perma.cc/T9AB-L6VY>] (Russ.).

²⁵⁷ *Id.*

²⁵⁸ See Annex I.

States,²⁵⁹ the European Union,²⁶⁰ the United Kingdom,²⁶¹ and Canada²⁶² sanctioned numerous high-ranking Chinese government officials such as Chen Mingguo, the Director of the Xinjiang Public Security Bureau.²⁶³ China immediately fought back and imposed (anti)sanctions on foreign government officials, such as Reinhard Bütikofer (a member of the European Parliament) and Gayle Manchin (the Chair of the United States Commission on International Religious Freedom). Political scientists have argued that the support and loyalty of Chinese political elites are essential to the Chinese government's stability.²⁶⁴ Through (anti)sanctions, the Chinese government showed support for these officials' policy choices and sent positive messages that the government would support them. Russia has similarly sanctioned high-ranking government officials to show support to Russian politicians and oligarchs. For instance, following the announcement of comprehensive sanctions by the United States against high-ranking Russian officials, Russia retaliated on May 21, 2022, by imposing sanctions on 963 American citizens, among them President Joe Biden and his son, Hunter Biden.²⁶⁵

C. Performative Economic Sanctions—How They Work

China and Russia have sent messages to different audiences who have different levels of expertise in analyzing patterns of sanctions. The knowledge discrepancy between audiences is one mechanism of performative sanctions. The *domestic public*, which does not have data access to sanctions' law enforcement and legal expertise in analyzing sanctions, tends to focus on information that the governments and media have conveyed and repeated. As Murray Edelman stated, "[t]he mass public does not study and analyze detailed data It ignores these things until political actions . . . make them symbolically

²⁵⁹ U.S. Dep't of Treasury, *supra* note 62.

²⁶⁰ Statement, Chair of the Delegation for Relations with the People's Republic of China, European Parliament, EU Sanctions to Four Chinese Individuals and a Chinese Entity on Human Rights Violations; Counter-Sanctions by the PRC (Mar. 23, 2021), https://www.europarl.europa.eu/cmsdata/231386/03_23_D-CN_Chair%27s%20statement_Chinese%20counter-sanctions_Uyghurs.pdf [<https://perma.cc/2QK7-ME7P>].

²⁶¹ Press Release, Government of the United Kingdom, *UK Sanctions Perpetrators of Gross Human Rights Violations in Xinjiang, Alongside EU, Canada and US* (Mar. 22, 2021), <https://www.gov.uk/government/news/uk-sanctions-perpetrators-of-gross-human-rights-violations-in-xinjiang-alongside-eu-canada-and-us> [<https://perma.cc/8LX8-BRQ4>].

²⁶² *China Sanctions*, GOV'T OF CANADA (Mar. 22, 2021), <https://www.canada.ca/en/global-affairs/news/2021/03/china-sanctions.html> [<https://perma.cc/LQ4T-SNHA>].

²⁶³ Those who have been sanctioned are: Wang Junzheng (the Secretary of the Party Committee of the Xinjiang Production and Construction Corps), Chen Mingguo (Director of the Xinjiang Public Security Bureau), Zhu Hailun (former Deputy Head of the 13th People's Congress of the Xinjiang Uyghur Autonomous Region) and Wang Mingshan (member of the Standing Committee of the Party Committee of the Xinjiang Uyghur Autonomous Region and Secretary of the Political and Legal Affairs Committee of the Xinjiang Uyghur Autonomous Region). U.S. Dep't of Treasury, *supra* note 62; Press Release, Treasury Sanctions Chinese Entity and Officials Pursuant to Global Magnitsky Human Rights Accountability Act, U.S. DEP'T OF TREASURY (Jul. 9, 2020) <https://home.treasury.gov/news/press-releases/sm1055> [<https://perma.cc/VWL2-TEUS>].

²⁶⁴ Joseph Torigian, *Elite Politics and Foreign Policy in China from Mao to Xi*, BROOKINGS (Jan. 22, 2019), <https://www.brookings.edu/articles/elite-politics-and-foreign-policy-in-china-from-mao-to-xi/> [<https://perma.cc/QJL4-BWCH>].

²⁶⁵ MINISTERSTVO INOSTRANNYKH DEL ROSSIYSKOY FEDERATSII, *supra* note 204.

threatening or reassuring, and it then responds to the cues furnished by the actions . . . not to direct knowledge of the facts.”²⁶⁶ Experts possess the capability to dissect the intricacies of sanctions, either through their own expertise or by engaging professional services for analysis. Experts are adept at deciphering the nuanced messages embedded within laws and their enforcement. Leveraging these disparities in expertise, China and Russia have adeptly communicated with diverse audiences through government speeches crafted to resonate with populist nationalist sentiments. This is further highlighted by the disparities between the language of the laws and their actual enforcement, as will be demonstrated below.

In their announcements of sanctions, the Chinese and Russian governments employed language designed to resonate with populist nationalist sentiments, yet these statements typically lacked legal ramifications. This strategic use of forceful language served to bolster the national pride while avoiding any legal repercussions. For example, the spokesmen of the Chinese MFA often used language like “[w]e urge that America must not go further down the *wrong and dangerous path* [by imposing unilateral sanctions] on China,”²⁶⁷ “what the United States did [with regard to unilateral sanctions] is against *trends and people’s wills*,”²⁶⁸ and “China will *reserve all the rights to take further actions* against the United States.”²⁶⁹ These strong adjectives and words such as “dangerous,” “wrongdoings,” and “against people’s wills” are provocative and may not constitute legally binding speech that forms international obligations.²⁷⁰ The Russian government has similarly employed rhetoric aimed at stirring populist sentiment, with minimal legal weight. For instance, President Vladimir Putin labeled Western sanctions following Russia’s invasion of Ukraine as “mad and thoughtless.”²⁷¹ Moreover, Russia’s Ministry of Foreign Affairs threatened a “strong” and “painful” retaliation against the Biden administration’s sanctions, targeting “sensitive” U.S. assets.²⁷² These statements, while not legally binding, are charged with nationalist fervor, demonstrating how Russia and China use nationalistic rhetoric to respond to international sanctions without invoking legal actions.

²⁶⁶ Edelman, *supra* note 243.

²⁶⁷ Waijiaobu Fayanren Bangongshi (@xws4_fmprc) (外交部发言人办公室) [Ministry of Foreign Affairs Spokesperson’s Office], WECHAT (Jan. 18, 2021), <https://mp.weixin.qq.com/s/Z9hDc8pWbnEBzKkgMiVMgw> [<https://perma.cc/LVN7-5USQ>] (China).

²⁶⁸ Waijiaobu Fayanren Bangongshi (@xws4_fmprc) (外交部发言人办公室) [Ministry of Foreign Affairs Spokesperson’s Office], WECHAT (Jul. 23, 2019), <https://mp.weixin.qq.com/s/K0afdNF42z3UFPxqzbskMA> [<https://perma.cc/5XK3-EZMS>] (China).

²⁶⁹ *Id.*

²⁷⁰ North Sea Continental Shelf Cases (F.R.G. v. Den.; F.R.G. v. Neth.), Judgment, 1969 I.C.J. 3 (Feb. 20).

²⁷¹ *Russia’s Putin Condemns ‘Mad and Thoughtless’ Western Sanctions*, BBC (Jun. 17, 2022), <https://www.bbc.com/news/world-europe-61847300> [<https://perma.cc/7JZP-Y2EF>]

²⁷² Natalie Musumeci & John Haltiwanger, *Russia Threatens to Target ‘Sensitive’ US Assets as Part of a ‘Strong’ and ‘Painful’ Response to Sanctions*, BUS. INSIDER (Feb. 23, 2022), <https://www.businessinsider.com/russian-government-painful-response-us-sanctions-2022-2> [<https://perma.cc/NK2C-RX83>].

Through the discrepancies between the laws and their enforcement, the sanctions imposed by China and Russia present multifaceted messages to multinational corporations. Initially, sanctions law in both China and Russia served as a form of strategic pressure on these corporations. Specifically, the Anti-Foreign Sanctions Law in China mandates that companies operating within its borders may not adhere to foreign sanctions that conflict with Chinese interests.²⁷³ This law places companies, especially those for whom the Chinese market is indispensable, in a precarious position of needing to align with China's regulatory demands without violating their home countries' sanctions. Upon the enactment of the Anti-Foreign Sanctions Law, there was an immediate response from businesses seeking legal advice to navigate these new regulations, leading to adjustments in their operational strategies to remain compliant within China. This urgency was underscored by recommendations from legal bodies such as the Beijing Lawyer Association, which advocated for multinational corporations to adhere to China's anti-sanction regulations.²⁷⁴ The enforcement of these laws has been notably lenient, indicating to multinational corporations that although the law on paper requires that companies not adhere to foreign sanctions, the likelihood of facing penalties for adhering to foreign sanctions against China is minimal. Up to the point of the writing of this paper, there have been no instances where the Chinese government has imposed sanctions on multinational companies for their compliance with foreign sanctions targeting China. This leniency offers companies a degree of confidence, enabling them to maintain their operations within China. Nevertheless, navigating the intricate legal landscape in China necessitates a politically astute approach from these entities.

It is worth highlighting that some scholars have identified China's use of measures that have coercive impact but are not officially labeled as sanctions. Scholars have termed these measures "informal sanctions." These informal sanctions introduce an additional layer of complexity for companies to consider, going beyond the scope of the performative sanctions previously mentioned. Scholars have highlighted how China utilizes informal sanctions, such as barring companies from participating in public procurement processes, as an additional means of exerting strategic influence over corporations.²⁷⁵ Other than companies, scholars have identified China's informal sanctions against other states as well. For example, Gholz and Hughes have detailed the effects of China's unofficial export limits on rare earth elements to Japan in 2010 following the detention of a Chinese fishing trawler's captain by the Japanese government.²⁷⁶ Chen and Garcia analyze the notable decline in (official) Norwegian salmon exports to China, attributing it to "subtle" sanctions following the

²⁷³ Anti-Foreign Sanctions Law, *supra* note 5, art. 12.

²⁷⁴ Yong Zhou (周勇), Jin Wang (王进) & Luyahui Liu (刘路雅惠), [*Shewai Lüshi*] *Shendu Jiedu <Fan Waiguo Zhicai Fa>* (【涉外律师】深度解读《反外国制裁法》) [[Foreign-Related Lawyers] In-depth Interpretation of the <Anti-Foreign Sanctions Law>], SHOU DU LÜSHI (首都律师) [Beijing Lawyers Association], Issue No. 4 (2021), <https://www.beijinglawyers.org.cn/cac/1631799645910.htm> [<https://perma.cc/XNS6-XR2X>] (China).

²⁷⁵ See generally Lim & Ferguson, *supra* note 43.

²⁷⁶ Lim & Ferguson, *supra* note 43, at 1526; Eugene Gholz & Llewelyn Hughes, *Market structure and economic sanctions: The 2010 rare earth elements episode as a pathway case of market adjustment*, 28 REV. INT'L POL. ECON. 611, 618 (2019).

awarding of the 2010 Nobel Peace Prize to a Chinese dissident.²⁷⁷ Fuchs and Klann provide statistical proof that, as a form of punishment, the Chinese government unofficially and temporarily lowers imports from countries whose leaders engage with the Dalai Lama.²⁷⁸ Lim and Ferguson have identified that after South Korea decided to deploy the terminal high-altitude area defense with the United States, South Korean businesses operating in China experienced significant financial losses.²⁷⁹ Lim and Ferguson have reported that in 2021, numerous Australian exports faced several technical and regulatory barriers when entering the Chinese market, although the Chinese government refutes claims that these obstacles are related to existing political disagreements.²⁸⁰ In late 2021, Beijing's coercive measures toward Lithuania were highlighted by reports that a state-owned Chinese railway operator notified Lithuanian clients of a suspension in the direct freight connection between the two nations.²⁸¹ These informal sanctions necessitate that companies exercise political sensibility to steer clear of becoming targets for (anti)sanctions measures. The gap between the laws on paper and their enforcement presents a nuanced message: while businesses can continue their operations in China as usual, they must navigate the political terrain with caution, as the Chinese government could take action against foreign companies under the Anti-Foreign Sanctions Law.

Russia has similarly sent mixed messages to multinational companies, such as proposing a bill to penalize those enforcing U.S. sanctions while simultaneously forcing those compliant businesses to remain in the Russian market.²⁸² This reflects a complex stance toward international business operations within its borders. Public denunciations have targeted companies for aligning with sanctions deemed unjust by Russia, and Russian politicians have even introduced a bill aimed at criminalizing companies that enforce foreign-imposed sanctions against the nation.²⁸³ These actions suggest an effort to dissuade companies from adhering to sanctions, underlining the Russian government's dissatisfaction. However, these efforts have appeared ineffective against the stringent sanctions imposed by the U.S. and other Western countries. The impact of these sanctions has severely restricted the ability of multinational companies to operate in Russia, leading them to leave the Russian market following Russia's

²⁷⁷ Lim & Ferguson, *supra* note 43, at 1526; Xianwen Chen & Roberto Javier Garcia, *Economic Sanctions and Trade Diplomacy: Sanction-busting Strategies, Market Distortion and Efficacy of China's Restrictions on Norwegian Salmon Imports*, 30 CHINA INFO. 29 (2016).

²⁷⁸ Lim & Ferguson, *supra* note 43, at 1526; Andreas Fuchs & Nils-Hendrik Klann, *Paying a visit: The Dalai Lama effect on international trade*, 91 J. INT'L ECON. 164, 166 (2013).

²⁷⁹ Lim & Ferguson, *supra* note 43, at 1525–26.

²⁸⁰ *Id.*

²⁸¹ William Piekos, *Investigating China's Economic Coercion: The Reach and Role of Chinese Corporate Entities*, ATLANTIC COUNCIL 6 (2023), <https://www.atlanticcouncil.org/wp-content/uploads/2023/11/Role-and-Reach-of-Chinese-Econ-Statecraft-1.pdf> [<https://perma.cc/ZD4G-YU62>].

²⁸² Alexander Bychkov, et. al., *Russia Is Considering Criminal Sanctions for Executives of Companies That Take Actions in Order to Implement Foreign Sanctions*, BAKER MCKENZIE LLP (Apr. 25, 2022), <https://sanctionsnews.bakermckenzie.com/russia-is-considering-criminal-sanctions-for-executives-of-companies-that-take-actions-in-order-to-implement-foreign-sanctions/> [<https://perma.cc/NU2Z-5CH6>].

²⁸³ *Id.*

invasion of Ukraine in February 2022.²⁸⁴ For example, H&M, which had about 170 stores in Russia, reportedly paused its sales in Russia in March 2022.²⁸⁵ Despite these challenges, Russia has implemented various strategies to encourage companies to maintain their operations within the country. For instance, the Russian government has mandated a 50 percent discount on the assets of companies seeking to exit the market²⁸⁶ and approved measures potentially leading to the nationalization of foreign firms that suspend operations or attempt to leave.²⁸⁷

The rationale behind this approach diverges from traditional theories of performative legitimacy, which often cite the uncertainty of outcomes as a driving factor.²⁸⁸ Instead, it stems from economic imperatives to maintain the presence of multinational companies within their borders and from the normative values of non-intervention. While these economic and normative considerations may seem at odds with the desire to appear as a strong state to domestic audiences, China and Russia opt to engage in performative sanctions. These decisions underscore a strategic choice to navigate the complex interplay between domestic economic interests, international normative values, and the need to maintain domestic popular support.

CONCLUSION

This paper investigates the (anti)sanctions regimes of China and Russia, unveiling a different sanctions approach that diverges from the conventional belief that to be effective, sanctions must be economically harmful to target states. Termed “performative sanctions” throughout this paper, this strategy employs strong rhetoric appealing to nationalist sentiments and a disjunction between laws and their enforcement. It allows both nations to project resistance against Western sanctions and influence the actions of multinational companies without incurring significant costs. The rationale for China’s and Russia’s adoption of these strategies merits further investigation. In this paper, I present preliminary arguments that two potential conflicts arise: the balance between projecting defiance against Western countries’ sanctions and retaining multinational companies in their markets, and the balance between such projection of defiance and the need to uphold their stated principle of non-intervention in other countries’ domestic affairs. After all, Russia and China need multinational companies to climb the global supply chain. The technologies, know-hows, and investments of multinational companies are essential to China’s and Russia’s

²⁸⁴ *Companies Are Getting Out of Russia, Sometimes at a Cost*, N.Y. TIMES (Oct. 14, 2022), <https://www.nytimes.com/article/russia-invasion-companies.html> [<https://perma.cc/WAB2-4DFV>].

²⁸⁵ *Id.*

²⁸⁶ *Alikhanov soobshchil, chto ugrya iz Kitaya prodavali pod vidom kaliningradskogo* [Alikhanov Reported that Eel from China Was Sold under the Guise of Kaliningrad], RBC (Mar. 14, 2024), <https://www.rbc.ru/economics/14/03/2024/65f3259e9a7947af084a7c5f> [<https://perma.cc/4A7M-DNYN>] (Russ.); Huileng Tan, *A Timeline of 5 Major Hurdles Russia’s Imposed on Western Firms Trying to Exit the Country*, BUS. INSIDER (Sept. 8, 2023), <https://www.businessinsider.com/russia-penalties-companies-exit-market-ukraine-war-sanctions-timeline-2023-9> [<https://perma.cc/D8K5-MKPQ>].

²⁸⁷ Tan, *supra* note 286.

²⁸⁸ Wang, *supra* note 13.

economies.²⁸⁹ Moreover, the Russian and Chinese governments have often publicly announced that they oppose the idea of intervening with the domestic affairs of other states. Despite the questioning of the legitimacy of sanctions due to their coercive nature, China's and Russia's approaches to imposing sanctions without economic harm seemingly avoid these criticisms. This exploration aims to highlight a model for countries in weaker global economic positions or those adhering to non-intervention principles, suggesting that sanctions can be strategically employed without direct economic repercussions.

Although this paper highlights performative sanctions through the examples of China and Russia, this paper does not suggest that such sanctions are exclusive to authoritarian states or those in a less favorable global supply chain position. Performative sanctions are also present in liberal democracies with strong economies, such as the United States, but performative sanctions in such states manifest differently. For instance, despite the United States' stringent export control policies against China,²⁹⁰ the news reported that the United States approved 70 percent of export license applications for controlled items to China in 2022.²⁹¹ This discrepancy between policy and enforcement effectively reduces the economic impact. In future research, I plan to explore how liberal states with greater access to information implement performative sanctions, shedding light on the strategic use of this approach across different political and economic landscapes.

²⁸⁹ Anthony Saich et. al., *Reading the NPC Tea Leaves: Xi in Firm Control of Party Elite*, FAIRBANK CTR. FOR CHINESE STUD., <https://fairbank.fas.harvard.edu/research/blog/reading-the-npc-tea-leaves-xi-in-firm-control-of-party-elite/> [<https://perma.cc/38KG-XU5A>]; Lauren Feiner, *Why Russian people need tech companies to stay, not withdraw: It's terrifying 'how dark that place could become'*, CNBC (Mar. 17, 2022), <https://www.cnbc.com/2022/03/17/why-russian-people-need-tech-companies-to-stay.html> [<https://perma.cc/7HFQ-M56H>].

²⁹⁰ U.S. DEP'T OF COM., BUREAU OF INDUSTRY AND SEC., 2021 ANNUAL REPORT OF BUREAU OF INDUSTRY AND SECURITY (2022).

²⁹¹ David Shepardson, *US approved 70% of export license applications from China in 2022*, REUTERS (Feb. 27, 2023), <https://www.reuters.com/markets/us-approved-70-export-license-applications-china-2022-2023-02-27/> [<https://perma.cc/9FVP-SXMU>].