War Series: The Multipolar Sanctions Minefield – China's Supreme Court Outlaws "Overcompliance" with U.S. Sanctions

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The Headline Event: Overcompliance is Now a Direct Liability

In a landmark directive with immediate, severe implications for global supply chains and cross-border finance, China's Supreme People's Court (SPC) has formally utilized its 2021 Anti-Foreign Sanctions Law (AFSL). By elevating a recent Shanghai Maritime Court ruling into its official case database and giving it "strong exemplary significance," the SPC has established the mandatory application of the AFSL in commercial disputes.

The Crux: The End of the Sanctions "Safe Harbor"

The crux of this development is simple but overcoming: actions taken to comply with Western sanctions now systematically trigger legal liability within Chinese jurisdiction. There is seemingly no longer a neutral ground.

Historically, when Washington escalated economic restrictions, the corporate playbook was uniform: comply (or potentially overcomply) to avoid regulatory wrath, and sever or drawdown ties with targeted entities. Financial institutions relied on boilerplate "draw-stops." Logistics providers invoked the "fear of secondary sanctions" to halt shipments. Losses from these broken contracts were absorbed as the cost of doing business to appease the U.S. Office of Foreign Assets Control

(OFAC).

That unipolar reality is now subject to reconsideration. The SPC has explicitly established that preemptive overcompliance to appease Western regulators may trigger lawsuits, asset seizures, and countermeasures inside China. Under the AFSL, enforcing or assisting in foreign “discriminatory restrictions” against a Chinese party is itself an illegal act.

The Precedent: The $740,000 Price of Obeying OFAC

The facts of the precedent-setting case are a wake-up call for international compliance officers. In late 2022, a Hong Kong-based company hired a Singaporean carrier to transport roughly RMB 4.99 million (USD 740,000) worth of electronics from Shanghai to Panama.

After loading the cargo, the Singaporean carrier discovered the Hong Kong shipper was on a U.S. sanctions list. To avoid secondary penalties from Washington, the carrier abruptly halted performance. It refused to issue a bill of lading, refused to deliver the cargo in Panama, and unilaterally shipped the goods back to Shanghai.

When the shipper sued for damages in China, the carrier defended its actions by citing standard contractual clauses, the overarching risk of U.S. secondary sanctions, and a foreign choice-of-law provision.

The Shanghai Maritime Court firmly rejected this defense, ordering the carrier to pay the full cargo value of RMB 4.99 million plus interest.

The Legal Trap: Voiding Boilerplate Defenses

The court’s reasoning causes caution to traditional corporate defenses and establishes two significant realities for foreign businesses:

1. **Foreign Sanctions Are Not “Force Majeure”:** The court ruled that the preemptive fear of foreign secondary sanctions does not excuse contractual non-performance. The carrier was not responding to a direct U.S. legal order; it acted out of internal compliance fears. The Chinese court viewed this preemptive overcompliance as actively assisting in illegal foreign discrimination.
2. **Contracts Cannot Override Chinese Law:** The carrier attempted to invoke Singaporean law based on its standard bill-of-lading terms. The court blocked this attempt, declaring the AFSL a mandatory provision of Chinese public policy. If a dispute involves Chinese interests, Chinese courts will bypass foreign choice-of-law or international arbitration clauses to enforce the AFSL.

The Squeeze on Global Lenders and Supply Chains

This ruling places international lenders and logistics providers directly in the crosshairs. Because the SPC has mandated the AFSL’s application, triggering a draw-stop against a Chinese entity out of fear of Western sanctions strips a lender of contractual protections within China. The traditional corporate protocol, assess exposure, freeze the account, and cease all communications before a regulatory deadline, is now a risk to being sued in a Chinese court, where foreign fora or arbitration protections may be disregarded.

Businesses can no longer rely on a passive, one-sided compliance approach. For corporate boards and legal counsel managing cross-border transactions, this precedent demands a tactical pivot. Standard OFAC-compliance clauses, automatic termination rights, and sanctions-related draw-stops are now highly vulnerable. Contracts involving Chinese entities must be revised to include localized grace periods or alternative performance mechanisms that do not explicitly cite “compliance with foreign sanctions” as a trigger for termination.

Companies should also consider proactively engage in structured, court-facilitated mediations to engineer a structured settlement that safely navigates the fault lines of both U.S. and Chinese law.

Takeaway

Global businesses no longer face a single dominant regulatory regime. China’s Supreme People’s Court has delivered a definitive mandate: U.S. sanctions are not a valid excuse for disrupting Chinese commerce. Multinational entities must recognize that the very mechanisms they historically used to protect themselves from Western regulators are now the exact triggers for liability in the East. Navigating this multipolar minefield requires abandoning passive compliance in favor of highly sophisticated, transaction-specific risk management.

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