

# *Article on the Legal Basis of U.S. Business Interests Groups Promoting the Trade War Against China*

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**Abstract:** Since 2018, the Sino-US trade war has become the focus of world attention. This article uses the principle of “Standard of Right” in jurisprudence as the basic principle, and uses case analysis to explore the legal basis for US business interests groups to promote the trade war with China. The article found that business interests groups in the US manufacturing and high-tech fields played an important role in promoting the trade war against China. The decline of domestic manufacturing in the United States, the rapid development of China's manufacturing industry, and the development of China's high-tech industry have endangered the dominance of U.S. in these industries, so relevant interests groups hope to promote the trade war against China to revitalize their own manufacturing industry, hinder the development of China's manufacturing industry, maintain their hegemony in the high-tech field, so as to safeguard its own interests, fully demonstrating the principle of “Standard of Right”. Faced with the negative role of US business interests groups in the trade war with China, China should use relevant domestic laws and regulations, and formulate foreign economic sanctions laws to restrict US business interests groups and avoid the Sino-US trade war.

## **1. Introduction**

Interests groups refer to political organizations in a democratic political system that hold a common attitude and seek to influence government policies in order to achieve a specific purpose and obtain a specific benefit<sup>[1]</sup>. Historically, there have been many interests groups in the United States, and business interests groups are one of the important ones. For their own interests, they have an important influence on the formulation of the domestic constitution of America, the composition of the government, and internal and external political decisions<sup>[2]</sup>.

After the outbreak of the Sino-US trade war, domestic and foreign researchers mainly carried out researches focusing on the causes, essence, impact and countermeasures of the Sino-US trade war from the perspectives of agriculture, industry, commerce and WTO rules. Few of them analyzed the trade war from the perspective of jurisprudence, or specifically from the perspective of the principle of “Standard of Right”<sup>[3]</sup>. In addition, most of the researchers only analyzed the Sino-US trade war from a broad sense, the perspective of the United States and China, and few of them explored the important role of US business interests groups in the Sino-US trade war.

Based on the above reasons, this article uses the “Standard of Right” principle in jurisprudence as the basic principle, and aims to discuss the legal basis for US business interests groups to promote the Sino-US trade war.

## 2. The U.S. Trade War Against China and U.S. Business Interests Groups

In 2018, at the request of a number of US companies or company alliances, it conducted 21 anti-dumping investigations and 15 anti-subsidy investigations and related measures on products imported from China. In May 2018, at Trump’s request, the Ministry of Commerce has conducted the “232 Investigation” on automobiles and their parts and accessories imported from China, and held a hearing on the investigation results in July of the same year. In April 2018, the Ministry of Commerce held that ZTE had violated U.S. export control measures that prohibit other countries from exporting to Iran and failed to deduct bonuses and issue disciplinary letters to relevant employees in accordance with previous decisions. The Ministry used this as an excuse to prohibit US companies from providing related products to ZTE, with a validity period of 7 years. It can be seen from the above measures that the representatives of the US business interests groups or business group that promote trade measures against China have played an important role in the trade war against China.

The article found that US business interests groups mainly used the following three channels to influence the trade war against China:

(1) Protect their own interests in accordance with relevant laws<sup>[4]</sup>. In the “United States Code”, there are certain legal provisions that clearly stipulate the protection of the interests of relevant domestic enterprises and consortia in the United States, and provide legal means for American business interests groups to safeguard their own interests. For example, the Office of the United States Trade Representative initiated five “301 investigations” on products imported from China based on Article 301 (“Section 301”) of the “Trade Act of 1974”.

(2) Use democratic elections to influence political decisions. The democratic election system in the United States allows business interests groups to indirectly influence trade policy decisions through democratic elections<sup>[5]</sup>. For example, in terms of the composition of the Office of the United States Trade Representative, there are 30 senior staff engaged in business-related work. Among these staff, many were important personnel in companies and consortia before being formally appointed, such as Gregg Doud, who was once the chairman of the Commodity Markets Council. As a representative of business interests groups, he has close ties with domestic business interests groups and has an important influence on trade policy towards China.

(3) Mobilize the people through democratic assembly and lobbying. The First Amendment to the U.S. Constitution stipulates that Congress shall not enact relevant laws to deprive freedom of speech and freedom of the press; or deprive the people of the rights of peaceful assembly and appeals from the government. It does stipulate the rights of the American people to peacefully assemble and express their speech, providing the United States business interests groups opportunities to safeguard their own interests.

U.S. business interests groups promoted a trade war against China, bringing certain benefits to them and creating opportunities for their own development. However, the Sino-US trade war is generally a self-harm and unfavorable war for U.S. business interests groups. It is manifested in the following three aspects:

(1) The export of products to China has decreased. Historically, China has always been an important market for U.S. exports, but the trade war may make the U.S. lose this market. According to statistics, in 2018, the U.S. exports of goods to China ranked among the top five export countries in the United States. The total value of U.S. goods exports to China in 2015, 2016, and 2017 were

116.19 billion U.S. dollars and 115.78 billion U.S. Dollars and 130.37 billion U.S. Dollars respectively, a relatively high level, and the overall trend is increasing. However, in 2018, the value of trade in goods fell for the first time to 120.34 billion U.S. Dollars, a year-on-year decrease of 7.4%. This is a loss for U.S. business interests groups. This is just the beginning of the loss of China's huge market by business interests groups. With the intensification and continuation of the trade war, this will undoubtedly cause greater losses.

(2) The products imported from China decreased. According to statistics, in the first three quarters of 2018, the U.S. imports of electronic products from China dropped by 12%, and the total amount of electronic products imported from other countries/regions dropped by 6%. This will have a certain impact on American retailers and electronic communications companies.

(3) The cost of opening up new markets has increased. U.S. business interests groups promoted the launch of a trade war with China. Consequently, the number of Chinese products entering the U.S. market has decreased. How could related companies and industries in the U.S. that rely on imports respond?

*Fig.1 , Year-on-Year Changes in the Distribution of U.S. Imports in the First Half of 2019*

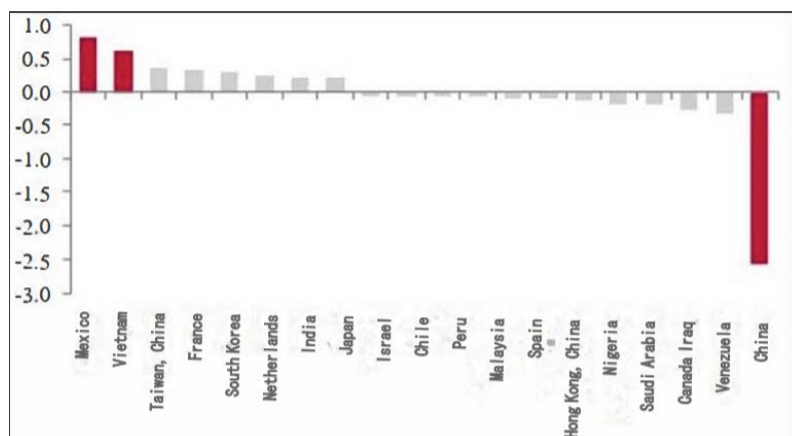


Image source: CEIC, Zhongtai Securities Article Institute

According to the statistics of the Zhongtai Securities Article Institute on the distribution areas of US imports in the first half of 2019, the US imports of products from China in the first half of 2019 have dropped significantly. However, in order to make up for the import gap and meet production needs, the US has also increased its imports of products from Vietnam and other countries or regions. In this process, opening up new markets, negotiating, dealing with new trade disputes, and other things will all bring huge expenses to related American enterprises and industries, so the expenses of American business interests groups will increase significantly in this process.

### **3. The US Trade War Against China is a Manifestation of the Interests of Business Interests Groups**

According to Part 2, the business interest groups that request the US Department of Commerce to initiate investigations and measures on related Chinese products are mainly manufacturing and high-tech industries.

Since the common interests of business interests groups are mainly economic interests, and the purpose of their lobbying activities is mainly to maintain and promote their business interests, this article mainly analyzes the economic effects when exploring the reasons for their promotion of the trade war against China. The article found that the main reasons for its promotion of the trade war against China are as follows:

(1) The domestic manufacturing industry in the United States has declined, so the trade war against China has been used to promote the recovery and development of domestic manufacturing of its own. In the history of the United States, beginning in the 1960s, the United States has implemented a policy of “deindustrialization”, gradually moving domestic manufacturing to developing countries. However, this process led to the gradual decline of domestic manufacturing. Trump emphasized “America First” policy, withdrew from the “Paris Agreement” and has relocated a large number of foreign companies back to the United States, which actually reflected the decline of the US manufacturing industry. Actually, one of the purposes of Trump’s policy is to revitalize the US manufacturing industry.

(2) In view of the rapid development of China's manufacturing industry and the “Made in China 2050” proposal, the United States has used the trade war with China to contain China's manufacturing industry. After the reform and opening up, China’s preferential policies have promoted many foreign manufacturing companies to move into China and promoted the rapid development of domestic manufacturing companies. With the spread of the “Made in China” logo to the world, Chinese manufacturing has brought huge challenges to the development of related domestic companies in the United States, and even endangered the development of American manufacturing. What makes the United States more anxious is that China has proposed the “Made in China 2050” strategy, which threatens the dominance of the US manufacturing industry in the world and reduces the US's global competitiveness. Therefore, measures have been taken to obstruct the implementation of China's five-year plan.

(3) China's high-tech development threatens US hegemony. The United States uses the trade war with China to hinder the development of China's high-tech industries in order to maintain its high-tech hegemony. The United States has implemented repressive measures against Chinese high-tech company Huawei. In recent years, Huawei's rapid rise has not only won a good reputation in China, but also occupied important markets in the world, especially in the development of 5G. It is technologically ahead of the United States and has a larger market share than the United States. This makes relevant American companies feel tremendous pressure and believe that their rapid development threatens their global business interests.

#### 4. Conclusion

Based on the Standard of Right principle in jurisprudence, this article takes the trade war between China and the United States from the beginning of 2018 to the end of the year as the article object, outlines the relevant anti-dumping, countervailing, intellectual property protection and national security incidents taken by the US in the Sino-US trade war, and analyzes the important role of business interests groups in related fields. Finally, this article draws the following conclusions: the reasons why the business interests groups in the American manufacturing and high-tech industries had promoted the trade war against China are because of the decline of domestic manufacturing in the United States, the rapid development of manufacturing industry of China, the proposal of “Made in China 2050”, and China’s development in the high-tech field which threatens their dominance in the high-tech field. Therefore, the US business interests groups have promoted the trade war against China to revitalize their manufacturing industry, hinder development of manufacturing industry in China and “Made in China 2050”, and maintain their hegemony in the high-tech field. Faced with the important role of US business interests groups in the trade war against China, China can use existing domestic laws and regulations, including the “Foreign Trade Law of the People's Republic of China” and the unreliable entity list system as countermeasures. Secondly, the relevant laws and regulations should be formulated for foreign economic sanctions<sup>[6]</sup> to restrict American business interests groups and avoid the Sino-US trade

war.

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