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The Protection of Overseas Interests of the “Belt and Road” Initiative

-- Taking Artificial Intelligence as the Perspective

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ABSTRACT

"Belt and Road" initiative is an important part of China's overseas strategy, and the protection of overseas interests derived from it is fragile because of the lack of territorial jurisdiction protection. Take artificial intelligence as an example, the overseas interests of artificial intelligence derived from the “Belt and Road” initiative are mainly faced with the “long-arm jurisdiction” of Western countries led by the United States, and the disregard of international law by Western neorealism. Based on the field of artificial intelligence, this article puts forward suggestions on improving the overseas interests protection mechanism under the vision of the “Belt and Road” Initiative.

KEYWORDS

Community of Human Destiny; “Belt and Road” Initiative; Overseas Interests Protection; Artificial Intelligence Industry.

1. INTRODUCTION

With the development of globalization, artificial intelligence has gradually become an important driving force for the development of the world economy. This article discusses the protection of overseas interests of the "Belt and Road" Initiative from the perspective of the supply of international security public goods and the construction of international legal system.

2. ARTIFICIAL INTELLIGENCE INDUSTRY UNDER THE “BELT AND ROAD” INITIATIVE

2.1. The Content and Coverage of the Artificial Intelligence Industry Chain

Artificial intelligence is a kind of intelligent machine that imitates human behavior, logic and thinking process based on the new scientific and technological revolution. At present, the application of artificial intelligence technology has covered many industries and fields, including computer, intelligent equipment and automobile production. The development core of the artificial intelligence industry chain is mainly divided into three parts. The first part of the industry chain focuses on hardware research and development such as chips that determine the development of AI technologies and products. Chips are the core of the development of artificial intelligence. The computing power and data processing capacity of the chip directly determine the development of artificial intelligence technology, which also leads to fierce competition in this part. China's international competitiveness

in the field of chip development needs to be further improved, to a certain extent, the development of China's artificial intelligence industry depends on external chip supply, which is also one of the main reasons for China to face foreign technology blockade. The second part mainly focuses on the software and technology development relying on artificial intelligence, which mainly includes the processing of digital security, the manufacturing of intelligent devices, and the development and application of artificial intelligence models. For example, Chat GPT and other models capable of deep learning, mimicking, communicating with, and even helping humans with things like human language and behavior are an important part of the AI industry chain. The third part focuses on the application of AI technology in the fields of education, healthcare, commerce, logistics and finance. For example, medical robots and AI-assisted diagnosis have gradually entered the stage of clinical application, which means that products in the artificial intelligence industry chain have begun to play an important role in various industries.

2.2. Overseas Benefits Brought by Artificial Intelligence and Their Presentation

The overseas benefits brought by artificial intelligence are mainly divided into economic benefits, political benefits and cultural influence. In this section, this article will discuss the efforts made by various countries to protect the overseas interests of the AI industry.

First, the digital economy with artificial intelligence industry as the core has become a new growth point in the field of national and international economic trade. The AI industry is not only creating economic benefits through physical products such as chips, but also new economic value through the processing of data. For example, the economic benefits created by the cross-border Internet industry through data transmission and coverage are an important part of the overseas economic benefits created by the artificial intelligence industry. The *Digital Economy Partnership Agreement* signed on June 12, 2020, states that the Parties recognize that the development of the digital economy has led to the formation of interdependent cyber economies, and that the improvement of technology, product innovation and continuous expansion of markets brought about by a secure cyber environment have become the common interests of this economy.[1] Digital economy, as a "catalyst" to promote global economic development, is using advanced technologies to bring benefits to the development of all mankind.[2] The agreement focuses on digital trade facilitation, personal information protection and digital cooperation to maximize the existing and future economic benefits created by emerging technology industries, represented by the artificial intelligence industry.[3] In 2021, China also formally applied to join the agreement.

Second, the development and application of artificial intelligence technology in national governance not only improves social efficiency but also modernizes the social governance system and governance capacity. With the continuous development of artificial intelligence, relevant technologies have gradually begun to be applied to offices at all levels of government. Chinese governments at all levels have begun to gradually carry out the construction of digital government. Take the provinces of Zhejiang and Guangdong for example. Zhejiang Province applies artificial intelligence and other digital technologies to the market supervision mechanism, social governance work and the construction of public service system for the convenience of the people, to improve the government's ability to conduct macro-control on the development of market economy, ensure public safety and serve the people efficiently and with high quality.[4] Guangdong Province issued the “Guangdong Data Regulation” and institutionalized the construction of digital society on this basis. This also provides an effective case for the application of AI in national governance at the level of local legislation.

Third, the development and application of artificial intelligence technology has gradually penetrated into the creation of culture. On the one hand, the application of artificial intelligence technology has brought vitality to the creation of various cultural works. On the other hand, the production of artificial intelligence works has also put forward new requirements for the development of copyright. At

present, countries in the forefront of the development of artificial intelligence, such as China and the United States, have begun to study the regulation of generative artificial intelligence and digital intelligence achievements. In this regard, China has formulated the *Interim Measures for the Management of Generative Artificial Intelligence Services* and revised the *Copyright Law*, which not only restricts the creation of artificial intelligence works, but also points out the direction for the healthy development of artificial intelligence works. This has laid a foundation for China to further develop artificial intelligence technology and expand China's influence in this field on this basis.

3. LEGAL PROVISIONS ON ARTIFICIAL INTELLIGENCE

3.1. National Legislation in the Field of Artificial Intelligence

First, the EU has always been at the forefront of artificial intelligence legislation in the world. In 2018, the European Union's *General Data Protection Regulation (GDPR)* came into force, setting strict rules on the processing, storage and management of data and protecting personal data amid a boom in digital technology. In 2020, the European Union published the *Digital Services Act* to further constrain and clarify the responsibilities of digital service providers. In 2024, the European Union has passed the amendment of the *Product Liability Directive and the Cyber Resilience Act*, which respectively legislate on the liability for damage to digital products involving artificial intelligence and the liability of digital products in the network ecological security. On March 13, 2024, the European Parliament officially passed the world's first *Artificial Intelligence Act*. The Act will further regulate the existing problems arising from the development of artificial intelligence technology in the form of laws. At this point, the EU will create a comprehensive artificial intelligence governance system in a parallel way with multiple laws related to artificial intelligence to deal with problems in the application and development of artificial intelligence technology.

Second, the *Intelligent System Robot Competition Act* passed by the United States in 2012 has promoted and promoted the gradual refinement and improvement of its artificial intelligence related legislation in a certain sense. In 2021, the United States passed the *National Artificial Intelligence Initiative Act*, which aims to legally establish an agency to promote the development of artificial intelligence technology and solve various problems involved in the development of this technology.[5] In 2022, to achieve hegemony in the field of artificial intelligence, the United States passed the *Chip and Science Act*. The bill proposes preferential tax policies to attract AI companies, but it also restricts cooperative research in the field of artificial intelligence between enterprises with preferential policies and other national entities through legislation. From 2021 to 2023, the United States also carried out legislation on the development of artificial intelligence, such as the *Algorithm Accountability Act 2022*, the *National Artificial Intelligence Council Act* and the *Artificial Intelligence Leadership Act*, respectively, from the application of artificial intelligence, development and regulation.

Third, in July 2017, China issued the *New Generation of Artificial Intelligence Development Plan*. In this plan, China has made a detailed deployment of the development of artificial intelligence by 2030. The plan points out that the key tasks of China's artificial intelligence development by 2030 are to "build an open and collaborative artificial intelligence science and technology innovation system", "cultivate a high-end and efficient intelligent economy", "build a safe and convenient intelligent society", "strengthen the integration of residents in the field of artificial intelligence", "build a ubiquitous safe and efficient intelligent infrastructure system" and "forward-looking layout of a new generation. Industrial intelligence major science and technology project ".[6] This basically points out the direction for the development of artificial intelligence in China comprehensively and specifies the development and guarantee tasks of various departments in stages. The *Copyright Law* amended in 2020 extends the scope of works protected by the law to "intellectual achievements that meet the requirements of the work" in Article 3.[7] This amendment includes the intellectual achievements generated by artificial intelligence into the scope of the protection of works under the copyright law

through the background-type provisions. This is also a step forward in China's copyright protection legislation related to artificial intelligence. In 2023, China's multi-departments jointly issued the Interim Measures for the Management of Generative Artificial Intelligence Services to regulate the activities and results generated using generative artificial intelligence technology and clarify legal responsibilities. In the same year, the *Artificial Intelligence Law (Draft)* was included in the 2023 legislative work plan, which also means that the artificial intelligence law will improve China's legal system as an independent department law.

3.2. Provisions of International Law on Artificial Intelligence

Since the development of artificial intelligence technology is currently only concentrated in a few countries, the development of artificial intelligence at the level of international law only some international soft law exists and other forms of international law norms are still in a state of absence. In 2019, the International Organization for Economic Cooperation and Development (OECD) issued a *Recommendation on the Development of Artificial Intelligence (AI)*, which makes recommendations to member states on issues such as defining a clear AI governance mechanism and expanding the impact of AI in various fields. In 2021, the UNESCO General Conference adopted the *Recommendation on the Ethics of Artificial Intelligence*, which emphasizes "fully exploiting the potential that artificial intelligence can bring to all fields, especially development, and ensuring that national AI strategies are guided by ethical principles."[8] In addition, various international organizations have also begun to pay attention to the development of artificial intelligence with the development and application of the field and continue to put forward soft law documents such as the *Robot Ethics Report*, the *Data Ethics Charter* and the *Privacy Information Management Requirements and Guidelines*.

4. THE AREA ALONG THE OVERSEAS INTERESTS PROTECTION OF MAIN PROBLEMS AND THE REASONS

4.1. Problems of Artificial Intelligence Production Supply Chain – Take the Chip Production as the Example

Since 2020, the United States has begun to blockade the development of China in the field of artificial technology, and as the core of the artificial intelligence industry, the production and supply of chips are facing the containment of the United States. To prevent Huawei from using American technology, seizing the market, and expanding its international influence, the US Department of Commerce required all companies using American equipment to produce chips to obtain permission before providing chip products to Huawei in April 2020. In September, the US Department of Commerce's chip ban on Huawei officially came into effect, and in the same year, SMIC, as China's largest chip manufacturer, was included in the "Entity List" by the Bureau of Industry and Security under the US Department of Commerce. In 2021, the United States tried to join TSMC and dozens of other chip manufacturers to exclude China from their integrated semiconductor industry chain and reached bilateral cooperation with the European Union to try to move the supply chain of key materials for chip production such as integrated circuits away from China. Section 102 of the *Chip and Science Act*, passed in 2022, provides for "$50 billion over five years for the American Chip Foundation."[9] Funds must be used to implement the Department of Commerce Semiconductor Incentive Program. Section 103 of the Act "prohibits recipients of federal incentive funds from expanding or constructing new manufacturing capabilities of certain advanced semiconductors in specific countries that pose a national security threat to the United States."[10] Section 107 proposes "a 25% investment tax deduction for investments in semiconductor manufacturing."[11] Taxpayers can choose to treat the deduction as a tax credit. Through the above provisions, it can be found that the United States attracts semiconductor and chip and other artificial intelligence core parts production and research and

development enterprises to transfer to the United States through measures such as providing huge subsidies and tax credits to local semiconductor manufacturers and restricts these enterprises' cooperation and development with other countries in the unified field.

In addition to putting pressure on certain countries or regions, the root of the problem can also be traced back to the *Wassenaar Agreement*. The so-called *Wassenaar Agreement* is an agreement signed in 1996 by 42 countries under the auspices of the United States to control military and dual-use technologies such as electronic information, computers, and aviation and navigation instruments. The agreement requires member states to strictly restrict the export and transfer of technologies within the scope of the list to the embargoed countries. China is also on the list of embargoed countries in the agreement, which also sets a serious obstacle to the start and development of China's high-tech industry. To block and suppress China's high-end chip industry, the members of the agreement led by the United States updated the chip manufacturing provisions of the agreement in 2022 and 2023 to further take export control measures on important chip manufacturing equipment such as lithography machines.

The *Wassenaar Agreement* consists mainly of a list of military supplies and a list of dual-use items. The two revisions in 2019 and 2023 are not unexpected in the lithography machine, a necessary technology to produce artificial intelligence chips. The 2019 revision of the Wassenaar Agreement extends the control over the production of 7nm wafers, a high-end technology, to the preparation of 12nm wafers, which are used in large quantities. The latest revision of the Wassenaar Agreement in 2023 further extends the limitation on chip preparation to the manufacturing of 14nm silicon-based chips.[12] Although the agreement does not have mandatory effect, the implementation of the agreement by the member countries makes the impact of the agreement in the world cannot be ignored. Since 2015, a series of amendments to the agreement for the technical restrictions of lithography machines have to a certain extent catered to the United States' "jam neck" policy in the field of artificial intelligence in China. The continuous updating and application of the agreement has caused the fracture and quantity tension of China's chip supply chain. With the development and upgrading of China's artificial intelligence industry, the existence of the agreement will further become a potential threat to the development of China's artificial intelligence and other high-tech fields and may at any time cause substantial adverse effects on China's artificial intelligence and other industries that are highly concerned about and blocked by the United States, which also means that China's national interests and security will be threatened by the agreement at all times.

4.2. The “Belt and Road” Involves Different Judicial Standards in Countries with Different Legal Systems

Since the “Belt and Road” Initiative was proposed, more than 150 countries have participated in it, which are from the civil law system, the Anglo-American law system and many other different legal systems, which has also led to the inconsistency of the judgment basis and standards between two or more parties gradually becoming a potential adverse factor for the development of the artificial intelligence industry. The European Union, the United States and China, as regional organizations and countries in the forefront of artificial intelligence industry development in the world, represent the civil law system, the Anglo-American law system and the socialist law system respectively. With the development of artificial intelligence legislation in various countries, differences in legal rules have gradually begun to show.

First, the development of the civil law system in the field of artificial intelligence is more about strict regulation of data security and algorithm risks through legislation to prevent artificial intelligence from having a negative impact on human rights protection and social development. The most representative of these is the European Union's series of legislation on digital development. For example, the European Union, through the *General Data Protection Regulation*, the *Digital Services Act*, and the *Algorithm Regulatory Framework*, strictly protects and regulates data and algorithms to

avoid the risks that may occur in the development of artificial intelligence at various stages from the source. The Artificial Intelligence Act classifies artificial intelligence according to the level of risk it may pose to humans and sets out strict regulations and penalties.

Second, since 2018, as the development of the artificial intelligence industry in the United States has entered a stage of vigorous development, the legislation on artificial intelligence and related fields in the United States, as a representative of the common law system, has also entered a new climax, and more than 50 artificial intelligence bills have been passed in only one congressional term. Judging from the existing artificial intelligence legislation in the United States, the United States mainly focuses on encouraging the development of artificial intelligence and takes administrative supervision as the main form of supervision.[13] The *Chip and Science Act* of the United States clearly states the funding and incentive programs in the field of artificial intelligence. A series of legislation, such as the *National Artificial Intelligence Council Act* and the *Artificial Intelligence Leadership Act*, even added artificial intelligence regulators to the administrative system to regulate artificial intelligence through investigations by administrative agencies.

Third, although China has not yet presented artificial intelligence legislation in the form of a separate systematic law, the relevant legal provisions, development planning and the *Interim Measures for the Management of Generative Artificial Intelligence Services* and other contents have also made the legislative direction and framework of China's artificial intelligence gradually clear. In the aspect of artificial intelligence legislation, China is committed to creating a good environment for the development of artificial intelligence and supplemented by multi-dimensional supervision to prevent corresponding risks.

4.3. Long-arm Jurisdiction

As a case law country, the United States established the principle of long-arm jurisdiction in the case of "International Shoe Company v. Washington State", that is, it confirmed that the court can have formal jurisdiction because the defendant has a minimum connection with a certain state.[14] At the same time, to further expand the application of this principle, the United States has further concocted the effect principle, that is, no matter whether the perpetrator is an American or in the United States, as long as his act has an effect in the United States, the United States court certainly has the right to jurisdiction the act. In terms of textual expression, the principles of minimum connection and effect undoubtedly provide greater room for the American authorities to expand the interpretation and interpretation of course. To limit other countries, especially countries with increasing competitiveness such as China, and maximize their own interests, the United States has frequently applied long-arm jurisdiction rules to Chinese technology companies in recent years. For example, in 2012, the US Department of Commerce launched an investigation into China's ZTE for violating its export ban on telecommunications products to Iran and fined ZTE up to $2.29 billion in 2016 and 2018 respectively. In addition, to combat Huawei's development in high-tech fields such as artificial intelligence, Meng Wanzhou was indicted in Canada in 2018 on charges of commercial fraud, and at the same time, the United States tried to use the long-arm jurisdiction rule to extradite Meng Wanzhou to the United States for trial and use this as a bargaining chip to contain Huawei's development. These actions under the long-arm jurisdiction all show that the United States has begun to target China's high-tech industry, artificial intelligence industry will undoubtedly be a focus of it. This means that the application of long-arm jurisdiction will become a major threat to the overseas interests of our artificial intelligence industry.

However, long-arm jurisdiction rules, which the US regards as a tool for sanctions, are not legitimate under international law. First, the doctrine of long-arm jurisdiction comes from domestic case law in the United States. This rule was created through case law to provide a basis for the domestic courts of the United States to consider the relevant content of civil procedure law. At the same time, to initiate the application of long-arm jurisdiction, the United States has also introduced legal systems

such as the *Anti-Corruption and Bribery Regulations* and the *Export Administration Regulations*. Such system design has also found some reasons for the United States to extend its domestic judicial power outside the region and implement unilateral measures against competitive enterprises of other countries. However, although the United States has always been committed to expanding the scope of application of long-arm jurisdiction and even intends to gradually transform it into the basis for determining jurisdiction over relevant international economic cases in practice, this principle and the corresponding legislation and system design have always been the product of the United States to maximize its own interests and suppress the high-tech industries of other countries. This also leaves the system short of the general conditions for becoming an international rule. Second, the system design of the long-arm jurisdiction of the United States itself is not for the common interests of the international community, but for its own interests, and the application of the system still damages the sovereignty of other countries and interferes in the internal affairs of other countries, which means that the long-arm jurisdiction itself cannot be recognized by other countries in the international community and is likely to be found to violate the general principles of international law. Third, at present, countries around the world and some scholars in the United States believe that long-arm jurisdiction is only a legal tool for the United States to implement its hegemonism and oppose its expansion to extraterritorial application. All these show that the long-arm jurisdiction system is not a source of international law, so the long-arm jurisdiction act of the United States is probably not legitimate. From the unilateral sanctions and repression that the United States has applied long-arm jurisdiction to ZTE, Huawei and TikTok and other enterprises, it can be seen that the United States has pointed the finger at China's high-tech industries such as artificial intelligence, which has also led to the overseas interests created by China's high-tech industries such as artificial intelligence are being threatened by the illegal suppression of US domestic laws. At the same time, although China has taken a series of countermeasures to support Chinese enterprises to defend their rights in the face of the United States' implementation of long-arm jurisdiction over Chinese enterprises, the corresponding international commercial legal system in China is not detailed enough in terms of the protection of multinational high-tech enterprises. This has also led to the fact that companies led by ZTE and TikTok still face the threat of huge fines and even the serious consequences of being stuck for a long time in development issues due to various bans.

5. RESPONSE MEASURES

Due to the development of the artificial intelligence industry, the above chip supply chain is blocked, the adjudication standards between countries with different legal systems are contradictory, so that disputes are difficult to resolve, and the long-arm jurisdiction and other problems, this article will put forward corresponding countermeasures in this part to protect China's national interests.

First, to improve the chip supply chain, this paper believes that we should seek solutions from both short-term and long-term perspectives. In the short term, China should first look at the world and try to cooperate with other countries with strong strength in chip technology, such as East Asia and European countries. China could use the “Belt and Road” as a link to strengthen cooperation with these countries in the field of artificial intelligence chips and establish a diversified supply chain of chips and chip production equipment and materials to weaken the supply fluctuations and risks caused by the dependence on a single channel in the field of intelligent technology, which will also have a certain effect on resisting the unilateral hegemony led by the United States. Meanwhile, to solve the problem of chip demand, China should also reserve various types of chips to prevent panic and shutdown caused by the sudden blockade of relevant countries. In the long run, China should make use of the advantages of rich resources necessary for chip production to innovate in the application of materials to develop chip products with better performance, such as gallium arsenide and other new materials, the application has gradually made the development of chip technology in China to see new hope, which will also create new conditions and foundations for China to avoid technical blockade and sustainable development and innovation. To break through the United States technology

blockade and "jam neck" measures, the most important thing in China is to increase the intensity of talent training, which requires close cooperation between industry, university and research and build a platform for talent training and support the development and upgrading of the industry with new technology research and development. In addition, the state should also provide comprehensive policy and financial support to key enterprises at the forefront of the blockade, such as Huawei, so that such enterprises have more space and confidence in the dialogue between the powerful and the powerful.

Second, to solve the problem that the different laws and policies of different legal systems affect the normal development and distribution of China's overseas trade, this article holds that China should first make full use of the existing rules of international commercial disputes to solve the disputes in a fair and reasonable way. At present, there are two main ways to resolve international civil and commercial disputes: litigation and arbitration. China should choose a more efficient and reasonable way to resolve the conflict with full understanding of the facts of the conflict, the laws of the relevant parties and the relevant multilateral or bilateral treaties. In this regard, China should actively train legal talents such as international commercial lawyers and judges of international commercial courts to provide support and guarantee for enterprises involved in disputes. In addition, China could further improve mediation, a dispute resolution system known as Oriental wisdom, and expand its influence in dispute resolution, because mediation is a way to reach a consensus on dispute resolution through voluntary expression of will by both parties under the auspices of a neutral third party. This will effectively largely help the parties involved in different legal systems to effectively avoid the problems caused by different judicial standards. This solution cannot only efficiently resolve disputes, but also to a certain extent help the countries to which the parties belong to reach bilateral or multilateral agreements based on understanding and resolving disputes, to ensure that the two sides have a basis for long-term stable economic and trade cooperation in the future and effectively reduce the occurrence of disputes. From the perspective of international law, the formulation and application of international soft law may be more appropriate for this period when all countries are in the exploratory stage in the field of artificial intelligence. Therefore, intergovernmental international organizations and national academic circles should also actively issue documents on artificial intelligence to more clearly express countries' understanding of specific artificial intelligence issues and strive to gradually form soft laws that can be used to resolve disputes, and even influence the formulation of international rules on this basis.[15]

Third, in response to a series of provocative acts by the United States to suppress Chinese enterprises through long-arm jurisdiction in defiance of international law, to safeguard China's national security and overseas interests, China first needs to realize countermeasures against long-arm jurisdiction from the aspect of institutional design. In 2023, China promulgated the *Foreign Relations Law*. The law emphasizes that China has the right to take countermeasures against the corresponding violations of international law and interference in China's internal affairs to safeguard national interests, which is also considered to be an institutional breakthrough in the face of hegemonic acts represented by long-arm jurisdiction. This article holds that China should still fully conduct systematic research on the principle of long-arm jurisdiction and its practice mode and establish a perfect early-warning mechanism for possible risks to solve possible threats in the embryonic stage. At the same time, since the United States has systematized the application of long-arm jurisdiction through legislation such as the *Anti-Corruption and Bribery Act* and the *Export Administration Act* and has carried out several practices, it also requires China to formulate detailed countermeasures legal norms based on the *Foreign Relations Act* to provide sufficient legal basis for China's long-arm jurisdiction. In addition, China should make full use of its advantages in other industries and fields to become passive and active to contain the application of the principle of American long-arm jurisdiction in the field of artificial intelligence to safeguard our country's national security.

6. CONCLUSION

To build a community of human destiny, China, relying on the construction of the Belt and Road, actively promotes mutual benefit and win-win cooperation with countries along the artificial intelligence and is committed to the global strategic layout. The overseas construction and application of the artificial intelligence industry has injected new impetus for China to achieve its development goals in the new era and created huge overseas interests for China. However, the blockade of chip suppliers in the field of artificial intelligence by countries pursuing hegemonism and unilateralism, as well as the conflicts caused by hegemonism sanctions and the differences in judging standards of different legal systems all threaten the expansion and improvement of China's industrial layout and the protection of national interests. All these problems require China to attach great importance to and improve our overseas interests protection system in order to maintain our national security in an all-round way.

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