

CLIENT ALERT

Election 2020: U.S.-China Tensions Will Remain Regardless of Who Wins the White House

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U.S.-China trade relations and economic policy are highly politicized within the United States, and are key issues in the campaigns of both President Donald Trump and the Democratic nominee, former Vice President Joe Biden. A theme has emerged in the campaign messaging battles, with neither candidate ceding any ground on their “tough on China” bona fides. But as divergent as Trump and Biden are on many policy issues, when it comes to China and trade, there is some overlap between Trump’s executive actions and Biden’s campaign agenda.

Aggressive U.S. policymaking to call-out and sanction interests within China has strong bipartisan support among Washington officials. The expansion of national security laws in Hong Kong, the treatment of the Uyghurs in Xinjiang, China’s trade practices and industrial policies, the COVID-19 pandemic, and South China Sea have all converged to put China into the spotlight of the U.S. elections, even more so than in 2016. It can be expected that a challenging U.S.-China relationship will continue regardless of who wins the White House in November. For global businesses, these growing geopolitical and regulatory challenges do not present a static ‘new normal’ to adjust to, but rather an increasingly dynamic environment, requiring more nimble and proactive strategic planning, sourcing, policy, and compliance efforts.

Key Trends to Watch in U.S.-China Relations

- A continuing trajectory of a shift in the United States’ posture towards long-term strategic competition with China. The lines between national security interests and technology and economic policies vis-à-vis China are becoming increasingly blurred, with the result that the bilateral economic relationship increasingly will be perceived through the lens of national security.
- U.S. economic tools are evolving to sharpen their focus on targeted restrictions, while also broadening their scope and aperture to review key strategic issues, challenges, and vulnerabilities. While China was not expressly named in either bill, Congressional intent was clear in both the Foreign Investment Risk Review Modernization Act (FIRRMA), which strengthened the U.S. CFIUS investment-review regime, and the Export Control Reform Act (ECRA), which institutionalized new restrictions and sharper scrutiny for the export of so-called “emerging and foundational technologies.”
- There is an increased risk of technology decoupling as data flows into and out of China and with any Chinese nexus are increasingly under scrutiny. Networks and consumer application products are being examined and challenged over security and surveillance concerns. The State Department’s push for a global “Clean Network” of telecommunications companies raises the potential for further fragmentation in global ICT networks.
- A growing scrutiny on supply chains, particularly for linkages with China’s military, state security, and/or police forces, and any other entity that may be involved in human rights in China. This will include more aggressive use of Withhold Release Orders, such as the announcement on September 14 regarding certain products produced in Xinjiang. Areas of U.S. dependence on key supply chains with China – particularly for medical supply chains -- are viewed as potential sources of national economic and political risk.

- Accelerating innovation competition with increased focus on intellectual property, R&D investment, and influence in universities and academia.
- Growing proxy competition for economic, security, and cultural influence in third countries in South and Southeast Asia, Africa, Latin America and elsewhere. Taiwan and Hong Kong are also at an increased risk of becoming a flashpoint in the U.S.-China relationship.
- Increases in the revocations of student and worker visas and further diplomatic restrictions in both directions as retaliatory tools for the United States and China.

2021 Scenarios

President Trump asserts that the U.S.-China trading relationship has not worked to America's advantage, and Vice President Biden believes China has not met expectations for economic reform following China's entry into the World Trade Organization. Their specific approaches and tone may differ, but this critical bilateral relationship is trending in a similar direction regardless of which candidate enters the White House in 2021. Many experts believe that Trump will continue with "more of the same," if not an even more pugilistic approach; the question is, therefore, would a Biden Administration seek to create the political space to lessen the tensions, while still maintaining a "tough on China" posture?

Last week, Biden unveiled further elements of his "Made in America" plan which seeks to tighten Buy American provisions and establish an offshoring tax penalty and "Made in America" tax credit. This follows a supply chain plan that the Biden campaign released in July, which aims to implement reforms that will shift production on a range of critical products back to U.S. soil. These types of initiatives are generally aimed toward China, and are not dissimilar to President Trump's own "tough on China" policies. Under Trump's "America First" platform, the President has also called for supply chains to leave China and return to the United States, and for creating punishments and incentives for U.S. companies to return to the United States.

However, Trump and Biden do have different perspectives in how they understand the issues and what they believe the solutions are. Biden has a natural predilection toward engagement and may seek cooperation with China on issues such as climate change, but his own evolving personal views on how to handle China and the bipartisan Congressional focus on China will limit engagement options. Biden will likely have greater alignment with traditional U.S. allies like the EU, UK, and Japan, and seek to strengthen international institutions and leverage other democratic partners to develop issue-specific global coalitions. Currently, U.S. imposed and retaliatory tariffs impact over \$460 billion worth of imports and exports, and if elected, Biden would have the burden of deciding what to do with the U.S. tariffs that are already in place. While the tariffs have bolstered employment in some key sectors, they have come at a cost to American consumers and U.S. allies. Biden has criticized President Trump for his wide-ranging tariffs imposed on U.S. imports from China, but he has not said that he would do away with the tariffs if elected.

A second term of the Trump administration could provide a possible "cooling-off" during the post-election period as the White House pivots away from campaign mode. There may be renewed efforts to salvage the U.S.-China Phase One trade agreement and focus on the possibility of Phase Two negotiations. However, 'decoupling' proponents are likely to remain in a Trump White House (the "hawks" have proven to be more durable in this Administration than their moderate colleagues), and those elements would seek to build on recent momentum in conjunction with Republican allies in Congress. The administration could also seek to pursue its own global coalition approach, building on trilateral talks with the EU and Japan on WTO reform and parallel national security discussions. While a faltering U.S. economy could dissuade Trump's advisors from further tariff

implementation, they are likely to continue to use and expand the toolbox of other political and economic interventions, and would be unlikely to lift existing tariffs without a considerable and meaningful reciprocal action from China.

China has been reluctant to react to each U.S. action, but is accelerating efforts to build domestic champions to address any dependencies on U.S. goods. This is expected to continue in 2021 and beyond.

Conclusion

The U.S.-China relationship will remain tense regardless of who wins the election in November. While there may be some differences in how alliances and multilateral institutions are treated from the Oval Office, the tensions of recent years are likely to persist for at least the immediate and medium term. How these issues play out among U.S. and Chinese allies remains to be seen, which could be a durable outcome of the U.S. election.

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