

# US Industry Priorities for US-China Commercial Relations

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*US-China Business Council* | *December 2020*



THE US-CHINA BUSINESS COUNCIL

美 中 贸 易 全 国 委 员 会

# Executive Summary

The beginning of a new administration is an opportunity to re-evaluate strategic priorities for the US-China commercial relationship. At this inflection point, the US-China Business Council (USCBC) is pleased to put forward a set of commercial priorities with respect to China for the administration to consider.

- **Preserve Phase One, fast-track Phase Two, and remove tariffs:** While imperfect, the US-China Phase One trade agreement made important progress on longstanding trade barriers. Preserving the deal would provide stability for the commercial relationship. However, the tariffs imposed prior to reaching the agreement, most of which remain in place, have harmed American jobs, consumers, and commercial competitiveness. USCBC recommends the administration fast-track Phase Two negotiations with China to address additional barriers in return for a drawdown of tariffs by the end of 2021.
- **Eliminate market access barriers and level the playing field:** Further negotiations present an opportunity to address market access issues in areas like cloud computing, telecommunications, legal services, and entertainment. They also provide a venue to address unfair trading practices involving state-owned enterprises, government procurement, intellectual property protection, standards setting, trade remedies, cybersecurity, cross-border data flows, and data localization.
- **Re-engage with China to work toward constructive commercial relations:** Calling Chinese counterparts and signaling support for the commercial relationship will build trust early on. The administration should engage China in solution-oriented dialogue with time-bound, enforceable outcomes. It is also in the United States' interest to leverage visa policy to facilitate travel for legitimate business, education, standards-setting, and cultural exchange purposes.
- **Balance security and business concerns:** Export controls, investment screening, sanctions, and emergency powers should be carefully tailored and enacted in coordination with allies to protect national security without harming US competitiveness. The administration can support secure and resilient supply chains by narrowly defining critical goods, mapping supply chain ecosystems to understand gaps and availability, and planning long-term incentives to promote strategic diversification.
- **Re-establish US leadership in multilateral forums:** The United States should be actively involved in strengthening multilateral trade, investment, global health, climate, and standards-setting forums. It should join high-standard trade agreements and build coalitions of like-minded allies to press China to act as a responsible global stakeholder and make reforms at home.

To implement an effective China strategy, it will be critical for the administration to take an all-of-government approach, coordinating and sharing information both between executive agencies and with Congress. Robust industry input will be vital to crafting comprehensive, balanced policies that do not have inadvertent consequences. USCBC's board and members would be pleased to serve as a resource.

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# US Industry Priorities for US-China Commercial Relations

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## Introduction

With the start of a new administration comes an opportunity to evaluate strategic priorities for the US-China commercial relationship. The bilateral relationship poses many challenges—it is critical that they be managed in a way that preserves the numerous benefits of trade for the United States.

The US-China Business Council (USCBC) represents over 230 US companies that operate in a diverse range of industries and employ millions of Americans. With China driving global growth for the next several years, many top US companies, including many USCBC members, consider their business activities in China crucial to their overall success and their ability to reinvest in R&D. This, in turn, bolsters US technology competitiveness. US exports to China also benefit the United States, supporting roughly 1 million American jobs.

In this time of transition, USCBC is pleased to put forward a set of commercial priorities for the administration to consider with respect to China.

### **Maintain, defend, and extend Phase One progress**

USCBC urges the administration to maintain, defend, and extend the US-China Phase One trade agreement. The agreement made significant progress by addressing market access impediments in areas like agricultural trade, intellectual property protection, and financial services liberalization, which has provided tangible benefits to US companies. The agriculture chapter, in particular, marks historic progress in addressing longstanding trade barriers.

Although China has not completed its expanding trade commitments in full, its significant purchases of US goods and services have benefitted US companies and demonstrate a good faith effort at implementation. While we discourage the use of managed trade in future agreements, we recommend adhering to Phase One in full to provide stability and predictability for the commercial environment.

Phase One has served as a stabilizing force while the bilateral relationship has deteriorated in most other respects. Continued implementation, including progress on enforcing IP rights, can be used as a confidence-building measure and a base for further progress on bilateral commercial issues.

### **Fast track Phase Two negotiations and roll back tariffs**

It must not be forgotten that progress in Phase One came at a steep cost. Tariff escalation on both sides has cost American jobs, increased prices for consumers, hurt businesses, and required taxpayers to bail out farmers, all while doing little to correct the trade imbalances they were meant to address.

Before bilateral trade discussions broke down in May 2019, many items beyond Phase One had already been negotiated. USCBC urges the administration to fast track Phase Two negotiations to come to agreement on as many of these items as possible within the next year as a precondition for a complete removal of Section 301 tariffs and China's corresponding retaliatory tariffs. The administration should also immediately remove Section 232 tariffs and quotas on steel and aluminum, as they impact not only China, but many US allies, and hamper the United States' ability to coordinate with like-minded countries. Lifting the tariffs would provide much-needed stimulus to an economy still grappling with recession.

Phase One implementation and Phase Two negotiations also present an opportunity to address remaining market access barriers and conditions that create an unlevel playing field for US companies. After concluding Phase Two negotiations, the administration should work with China to lay out a roadmap for Phase Three negotiations to address any outstanding issues.

### **Other worthwhile efforts to promote constructive relations**

There are several additional actions the United States could take to promote constructive relations, parallel to trade negotiations. These include steps to be taken in tandem with China, like creating a new structure for solution-oriented dialogues with enforceable outcomes and promoting people-to-people exchanges, as well as steps that the United States can take at home, such as tailoring national security controls more narrowly to avoid harming company competitiveness in China and globally, as well as promoting supply chain security. The United States should also be actively involved in strengthening the multilateral forums and support China's continued integration into rules-based multilateral institutions.

It is important to also mention some approaches that would be counterproductive to American interests. Efforts to induce regime change or force China to change its economic governance model are unlikely to be effective and will undermine productive engagement in other areas. Attempting to impede China's economic growth, capriciously target its companies, or decouple our two economies would be similarly damaging. Such efforts may make US companies subject to retaliation in China, and they also run contrary to market-driven competition, which has enabled US companies to thrive worldwide.

### **An effective China strategy will require an all-of-government approach and robust industry engagement**

An effective China engagement strategy will require a coordinated approach across government. This will include sharing information with Congress to ensure proposals are realistic and strengthening the interagency process to reduce redundancies and ensure mandates and authorities are clear. Achieving internal alignment will improve the United States' ability to negotiate with China from a position of strength to achieve the outcomes most important to Americans. Designating a "China czar" to act as a point person for China policy within the US government and as a key interlocutor for the Chinese side could help improve both internal and external coordination.

We also underscore the importance of consulting with industry on policy making to ensure that measures are comprehensive and balance the interests of the full range of stakeholders. USCBC's members and board of directors would be pleased to serve as a resource for industry views on China policy as the administration begins identifying how it will engage with China.

# Priority Areas for Phase One Implementation and Phase Two Negotiations

We have identified a number of areas for further progress that either build on Phase One commitments or could be within reach for a Phase Two agreement by the end of 2021. We have prioritized actions we believe are both achievable and impactful, in no particular order.

## Eliminate market access barriers to US companies in China

While China has recently opened some sectors of its economy to foreign investment, China still maintains barriers against some of America's most competitive products and services.

1. **Agricultural biotech approvals:** The United States should hold China to its Phase One commitment to create a science-based and predictable approval mechanism for biotech products, which includes drafting a regulatory framework for genetically modified microorganisms by February. The administration should encourage China to clarify the approval timeline for new biotech products and eliminate unnecessary field testing requirements that draw out the approval process. Some foreign companies' biotech products have sat in the approval queue for many years—urging China to approve these immediately would be a quick win. Additionally, the United States could encourage China to join the Global Low Level Presence Initiative, which would be in line with China's Phase One commitment to work with the US government and importers when small amounts of yet-to-be-approved biotech products are discovered in shipments. (USTR, USDA, MARA)
2. **Tariff-rate quotas (TRQs):** The administration should work with China to give foreign trading companies equal consideration as domestic companies for the allotment of TRQs for private companies when quota is redistributed. (USTR, USDA, NDRC, MOFCOM, MARA, GACC)
3. **Crop protection trial data:** China has stopped accepting trial data for new crop protection products from countries without mutual data acceptance agreements like the United States. This requires companies to conduct costly duplicative testing and delays the release of new products in China. The US government should negotiate an interim agreement to ensure that US pesticide trial data is accepted by China's regulators as soon as possible, and in the meantime, work with China to adhere to OECD good laboratory practice standards to achieve mutual acceptance of data as a long-term solution. (EPA, USDA, USFDA, MARA, NMPA)
4. **Science-based requirements:** The administration should hold China to its Phase One commitments to ensure that sanitary and phytosanitary measures are science-based and non-discriminatory, specifically:
  - **Ractopamine:** Under Phase One, China committed to conduct a risk assessment on ractopamine use in cattle and swine. The administration should push for China to reverse its zero tolerance policy on this veterinary drug. (USTR, USDA, MARA)
  - **COVID-19 testing for food imports:** In some cases, Chinese customs authorities have blocked imports of food products alleging that they had detected COVID-19 residue on the packaging. They have also maintained bans on imports from some overseas plants that have experienced COVID-19 outbreaks even after they were brought

under control. The administration should work with the Chinese government to ensure it implements a standardized, transparent, and science-based methodology for inspection and treatment. (USTR, USDA, GACC)

5. **Coal import restrictions:** China maintains unofficial caps on coal imports, restricting them to the level of the previous year. This limits opportunities for US coking coal despite market incentives for China to import. The administration should work with China to loosen import restrictions as soon as possible. (USTR, DOE, NDRC, NEA)
6. **Restrictions on digital and internet services exports:** China's Great Firewall blocks international websites and internet services, creating unfair competitive dynamics by protecting domestic industry and eliminating a significant potential export market for US companies. The US government should work through multilateral organizations such as the WTO and with like-minded countries to hold China to its WTO accession commitments to open its domestic market to overseas digital services such as cross-border video distribution services. (USTR, ITA, MOFCOM, MIIT)
7. **Volume-based procurement:** China is pursuing an aggressive strategy of price cuts for pharmaceuticals and medical devices through government procurement. Companies are required to propose massive price cuts to even be considered for procurement under the tender, regardless of the innovative qualities or clinical outcomes associated with their products. The US government should push China to:
  - Be fully transparent and provide adequate advance notice in the tendering process;
  - Eliminate required price cuts as a condition to participate in tenders;
  - Provide stronger guidance to ensure consistent and fair implementation of tendering practices; and
  - Give appropriate weight to different product types and performance requirements for different patient needs when allocating volume shares in tenders.

(USTR, NMPA, NHSA, NHC)

8. **Trade remedies:** The administration should engage with the Chinese government to ensure that trade remedy actions are targeted at fairly processed cases and provide opportunities to negotiate the removal of tariffs where appropriate. Discussions should address the trend in investigations of China making preliminary determinations, with no legal basis, that "non-market situations" exist in the US oil, natural gas, renewable energy, coal, and electricity industries, which Chinese authorities use as rationale to calculate higher anti-dumping margins on related products. (USTR, Commerce, MOFCOM)
9. **Encourage China to create a regional pilot for wholly foreign-owned cloud computing:** The US government should work with China to pilot full foreign ownership of cloud computing companies in free trade zones as a first step toward nationwide opening. It is important to ensure that wholly owned foreign companies can obtain internet content provider (ICP), internet service provider (ISP), internet protocol virtual private network (IP-VPN), and internet data center (IDC) licenses without a domestic partner and provide services nationwide. In addition, China should allow US companies to operate cloud businesses and infrastructure without being forced to license software binaries or source code to Chinese companies or joint ventures. (NDRC, MOFCOM, MIIT)

10. **Financial services liberalizations:** Under the Phase One agreement, China promised to fully open its financial services sector. Discussions between USTR and its Chinese counterparts should ensure that China satisfies remaining commitments and continues issuing licenses to majority and wholly foreign-owned entities.
- **Asset management:** China should empower the relevant authorities to grant licenses to US financial services firms to operate as fully foreign-owned national and provincial-level asset management companies, allowing them to acquire non-performing loans directly from Chinese banks. (CSRC, PBOC)
  - **Futures:** China should continue to broaden the scope of futures products in which US financial institutions can invest, including allowing the trading of A-share index futures beyond qualified foreign institutional investors as well as onshore bonds. US futures brokers should be allowed to become overseas intermediaries at onshore futures exchanges. (CSRC)
  - **Insurance:** China should clarify the licensing process for wholly-foreign owned insurance companies by releasing detailed implementing regulations and removing any references to a 51 percent limit in existing legislation by the end of 2021. This would help foreign companies take advantage of foreign equity cap removal under the Phase One agreement. (CBIRC)
  - **Underwriting:** China should grant Type-A lead debt underwriting licenses to US securities firms, in line with their Phase One commitments. (PBOC)
11. **Urge greater openness in China’s entertainment sector:** Market opening progress has not been made in the entertainment sector for decades. We recommend the administration push China to:
- Allow foreign companies to own and operate online streaming services in China.
  - Allow foreign ownership of film and television production and distribution companies.
  - Finalize negotiations on a revised US-China film MOU within the 2021 calendar year as a follow on to a 2012 MOU. In 2012, China committed to provide further meaningful compensation to the United States with respect to increasing the overall import quota for revenue-sharing films and increasing the revenue share allocation of gross box office receipts for US studios.
  - Allow content review of foreign television series on a per-episode (instead of per-series) basis to align release dates between China and the United States. This is consistent with international practices and would facilitate a more transparent, streamlined, and expedient process for content review.
  - Remove quota restrictions on the number of US films and television series that can be imported to China’s digital platforms.
- (USTR, MOFCOM, CFA, NRTA)
12. **Legal services:** Foreign lawyers are prohibited from practicing Chinese law and Chinese lawyers are required to suspend their lawyer’s licenses when they join a foreign law firm. As a result, foreign firms in China can not provide comprehensive legal services. The administration should push China to lift these restrictions first in free trade zones and eventually nationwide.



## Promote a level playing field for competition between US and Chinese companies

In the 2020 USCBC Member Survey, a majority of respondents —77 percent— indicated they have concrete knowledge of, or suspect, state-owned competitors are receiving subsidies or benefits from the Chinese government, including preferential government financing, licensing and approvals, and access to government contracts.

The US government should encourage China to enact reforms of:

1. **State-owned enterprises (SOEs):** It is critical for the US government to encourage China to reform SOEs. Reforms should include adopting OECD competitive neutrality standards for SOEs and liberalizing industries that are traditionally dominated by SOEs, including energy and telecommunications. This would make access to financial resources more equitable and market-driven, and allow greater participation by private companies. **(State Council)**
2. **Subsidies:** China should eliminate subsidies inconsistent with international rules, commit to make remaining subsidies equally available to domestic and foreign companies, and notify the WTO of any subsidies above a certain threshold at the central, provincial, and municipal levels. **(MOFCOM, MOF)**
3. **Government procurement:** China should issue regulations that clearly define “domestic content” in a way that allows for the inclusion of foreign-invested enterprises. The central government should publish guidance to ensure that non-commercial factors like bilateral political tensions are not considered in tenders. **(NDRC, MOF)**
4. **Intellectual property:** Translating China’s Phase One commitments into tangible impacts for US companies will hinge on ongoing regulatory reforms and enforcement.
  - **Patent linkage:** Ensure China’s patent linkage system establishes a minimum 24-month stay period for determinations on marketing applications of patented drugs, and ensure that biologics are covered by this system. China should also immediately withdraw marketing approval for the more than 30 products that have received it despite infringing on more than 13 foreign patents. Implementing a strong patent linkage system will ensure such infringing approvals are avoided in the future. **(CNIPA, NMPA)**
  - **Regulatory data protection:** The NMPA should not approve follow-on drugs during the regulatory data protection period unless the follow-on applicant submits full clinical trial data that it has independently developed or received a license to cross-reference from the innovative drug manufacturer. **(NMPA)**
  - **Enforcement:** China should prioritize enforcement of intellectual property rights, including by ensuring that commitments on allowing more preliminary court injunctions for trade secret misappropriation are fully implemented. **(CNIPA, SPC, SAMR)**
  - **Online piracy:** China should intensify efforts to regulate peer-to-peer networks, video streaming websites, and mobile content aggregators to crack down on the online piracy of foreign films and content. **(NCAC)**
  - **Counterfeiting:** In 2019, more than eight of every 10 counterfeit products seized at US borders came from China or Hong Kong. The United States and China should

step-up discussions to mitigate the spread of counterfeit products and goods through 1) coordinating with the private sector to reduce the availability of counterfeits; 2) modernizing law enforcement policies and tactics to keep pace with counterfeiting technology and greater enforcement of existing measures; 3) enhancing bilateral coordination to tackle counterfeit items beyond the current scope of cooperation; and 4) empowering consumers to avoid counterfeit goods and raising awareness about these products in order to reduce demand for them in the United States. (SAMR)

5. **Merger and acquisition (M&A) reviews:** The politicization of China's M&A review process has led to the dissolution of acquisitions and undermined industry confidence in M&A. To resolve these concerns, US regulators should closely coordinate global antitrust reviews with SAMR, encourage agnostic industry reviews, and encourage a maximum 180-day review timeline for all cases. (SAMR)
6. **Administrative approvals:** Companies face challenges with inconsistent procedural timelines, regulatory implementation, and document requirements for the host of different licenses, permits, and certifications required to operate legally in the market. The administration should continue pushing China for transparent, rules-based processes to provide timely approvals for products and services without consideration of a company's foreign ownership or the US-China political situation. (State Council and all subordinate agencies)
7. **Standards-setting access:** Chinese standards-setting technical committees like TC180 and TC260 should immediately publish an open notice calling for foreign membership applications and allow participation in all of their technical discussions. (SAC)
8. **Critical information infrastructure (CII) requirements:** The Chinese government should clearly define the scope of CII and limit it to situations that truly impact national security. The Chinese government should also consult with the foreign business community in the process of identifying CII operators. The two governments should set up a dialogue on cyber-related issues from a commercial perspective, rather than covering this issue under security-related dialogues. (DHS, CAC, MIIT, MPS)
9. **Data localization and cross-border data restrictions:** These restrictions do not improve cybersecurity and should be eliminated. They are also costly to foreign companies, who must build new infrastructure in China in order to localize. The administration should lead an effort to integrate plurilateral frameworks and trade agreements with data governance provisions such as the APEC Cross-Border Privacy Rules (CBPR) and the United States-Mexico-Canada Agreement (USMCA) to create regional standards for data localization and cross-border data flows among participating countries. (USTR, MOFCOM, CAC, MIIT, MPS)
10. **Chinese cybersecurity certification:** Grading information systems and networks under China's multi-level protection scheme (MLPS) for cybersecurity should be voluntary, not just legally, but also in practice. For foreign companies that wish to undergo the process for competitive reasons, their IP and trade secrets should be adequately protected. China should accredit a foreign (or at least non-state affiliated) certification body to conduct these cybersecurity inspections to alleviate IP leakage and conflict of interest concerns. Additionally, American companies should be able to use their compliance with global cybersecurity standards such as NIST's Cybersecurity Framework as a substitute to satisfy Chinese customer demands for cybersecurity certification. (CAC, MIIT, MPS)

# Additional Recommendations to Promote Balanced, Constructive US-China Commercial Relations

## Re-engage with Chinese counterparts

With areas of tension increasing across all facets of the bilateral relationship, it is crucial for the administration to have regular communication with Chinese counterparts to rebuild trust and establish processes for engagement.

1. **Have an early call with Chinese interlocutors:** The president should have a phone call with President Xi Jinping to gauge China's receptivity to improved relations. Key Cabinet secretaries should similarly engage with their counterparts. (White House, USTR, Treasury, Commerce, State Department, USDA, State Council, MOFCOM, MOF, MOFA, PBOC, NDRC)
2. **Signal government support for US-China business activities:** The administration should host a meeting of leading US exporters, their top Chinese customers, and top Chinese companies with investments in the United States at the White House to highlight the benefits the commercial relationship brings to American employment and the economy, and send a signal that it is okay to do business together. For example, leading US and Chinese civil aerospace companies have worked together for decades to build a world-class air transport system in China that has made the system safer, and generated exports that create US jobs. Supporting such business engagement will enable continued safety and economic benefits. (White House)
3. **Re-open closed consulates:** The administration should expand diplomatic engagement by allowing China to re-open its Houston consulate in return for permission to re-open the US consulate in Chengdu. (State Department, MOFA)
4. **Define guardrails and identify new possibilities for constructive engagement:** US and Chinese diplomats should define areas where cooperation will be possible and those that require conflict management. The administration should reinvigorate cooperation with China on shared challenges such as climate change and pandemic response. (State Department, MOFA)
5. **Establish a structure for solution-oriented dialogue with enforceable outcomes:** The two sides should hold an annual presidential summit and regular Cabinet-level dialogues, either through the existing structure of Phase One principals and deputies meetings or another similar format. Dialogues should focus on clearly defined and time-bound priorities and should have a mechanism for dispute resolution and enforceable remedies for failure to implement agreed upon outcomes.
6. **Include subject-specific dialogues:** Dialogues on areas of disagreement as well as areas ripe for cooperation can help avoid misunderstandings and enhance regulatory coordination. The administration should work to set up dialogue tracks covering subjects including:
  - **Circular economy:** The US government should support a dialogue to promote business, environmental solutions, and innovation in areas like clean water, carbon reduction, renewable energy, and waste management. This would also provide opportunities to push China to re-evaluate environment-related trade barriers like its ban on scrap paper for recycling, which has forced domestic manufacturers to use

more raw resources, increasing the environmental impact. (USTR, EPA, MOFCOM, NDRC, MEE)

- **Data regulation:** Free flow of information internally between the United States and China is crucial for many multilateral corporations. Discussion on data localization, cross-border data flow, and CII will enhance much-needed policy coordination in an area crucial for smooth business functions. (CAC, MPS, MSS, DOD, NIST, Commerce, Treasury, USTR)
  - **Government procurement:** As the United States considers expanded “Buy American” requirements and China ramps up industrial policies, it will be important for both sides to remain in communication about expectations and policies around government procurement. This can also serve as a forum to discuss China's accession to the GPA. (MOFCOM, NDRC, SAMR, NPC, Commerce, Treasury, USTR, DOE)
7. **Support US company participation in trade expos:** The US government should lead trade missions to China. Likewise, it should fully support the participation of US companies in Chinese trade fairs like the annual China International Import Expo in Shanghai to help ensure the United States is well represented and that opportunities are not lost to foreign competitors. Such support is particularly beneficial for small- and medium-sized American firms who would otherwise not be aware of potential growth opportunities in the China market. (ITA)

## Narrowly apply national security controls to commercial scenarios

The US business community is a partner in the government’s efforts to assure US national security, technology leadership, and economic competitiveness. However, both the United States and China have invoked broad definitions of national security in recent years, which often puts pressure on companies operating in each other’s markets to choose sides. Overly broad applications of national security restrictions undermine global trust in US business. Already, American companies have seen foreign partners shy away from entering new partnerships for fear of having those relationships suddenly and unexpectedly restricted.

1. **Carefully define technologies, activities, and users subject to export controls:** Export restrictions should be tailored narrowly to address specific national security interests, factor in foreign availability, pursue the support of allies, and minimize unintended consequences to American commercial interests. The scope should be defined in coordination with industry with public notice and comment opportunities and with clear guidelines for compliance. The US government should issue additional clarification about the expanded scope of military end use and end users with respect to China, and make efforts to better understand Chinese military-civil fusion in order to respond in a targeted way. It should also issue additional clarification on the foreign direct product rule. (BIS)
2. **Align export controls with allies and multilateral regimes:** Pursuing multilateral alignment of export control actions to ensure that foreign availability is cut off is critical to ensuring national security and American companies’ competitiveness vis-à-vis their foreign counterparts. The administration should use internationally accepted best practices and metrics when developing export control lists and strive to align controls with multilateral regimes like the Wassenaar Arrangement. When possible, establish smaller coalitions with

countries leading the development of certain controlled technologies and base new technology control decisions on unanimity among the coalition members. It would be helpful to conduct a review of current export controls early on to determine areas of alignment with multilateral agreements and like-minded countries. **(BIS)**

3. **Narrowly apply national security controls:** Export controls, investment screening, sanctions, and emergency powers should be applied narrowly to address national security threats. In recent years the government has created novel definitions for “national security” and significantly expanded the term. USCBC welcomes working with the administration as it recalibrates the definition of legitimate national security risks and the use of national security controls to address those risks. While US policy must take into account the obligations that Chinese companies have to their government, policy should be primarily based on technical security threat assessments, balancing factors like cost of replacement, timeframe for replacement, level of risk, commercial impact to US companies, and protection of the rights of US citizens.
  - The administration should immediately revoke actions against WeChat and TikTok due to their tenuous links to national security. These actions also infringe on the rights of American citizens and create unnecessary challenges for US company operations. **(White House, Commerce)**
  - The administration should create an expedited review process for exporting products and technologies destined for mass markets or that are readily available from non-US companies. The administration should ensure that BIS has adequate staff and resources to issue export licenses in a timely manner. Delays in reviewing and making decisions on licenses mean lost sales for US businesses, often to foreign competitors. **(BIS)**
  - The administration should clearly signal the types of Chinese investment that would be welcome in the United States and what its primary concerns are in order to create a more predictable approval process and maximize the benefits that Chinese investment can bring to the US economy. **(CFIUS)**
4. **Provide sufficient transition time and administer licenses in a consistent manner:** The administration should allow for a sufficient transition period before national security controls like entity listings or sanctions take effect to allow US companies time to address any connections to sanctioned entities and, where appropriate, to apply for licenses. Before implementing controls, companies should be notified of the national security rationale for the controls, what types of licenses will be available, under what circumstances companies can receive licenses, and what the licensing process will entail. Licensing decisions must be consistent with narrowly tailored national security objectives and avoid picking winners and losers. **(BIS, OFAC, State Department, Defense Department)**

## Increase supply chain resilience

Secure and resilient supply chains will allow for more sustainable US-China commercial relations. Stable, predictable, and transparent policies will help US companies develop more effective, longer-term strategies for their China markets, global business layout, and supply chains.

1. **Clearly and narrowly define critical goods:** Products with wide-spread commercial availability, multiple suppliers in allied or aligned countries, and concentration in China below a certain percent should be exempted from this definition. Exclude any production in China focused on domestic and regional transactions. Critical goods classification should be economically prudent, socially responsible, and strategically sustainable. (NSC, CBP, Treasury, BIS)
2. **Map supply chain ecosystems:** Work with industry to understand supply chain ecosystems to delineate raw materials, intermediate goods, and components integrated into finished critical goods. Conduct gap analyses to assess availability and competitiveness in alternative markets, relying on comparative advantage, and incentivize up-stream production alternatives in diversified markets. (ITA, State Department)
3. **Plan strategic diversification:** Legislate 5-10 year production incentives like federal grants, investment tax credits, and other tax incentives to promote new manufacturing investments in critical sectors in the United States and other markets. Leverage regional trade agreements to maximize comparative advantage and access to critical raw materials and necessary inputs. Such efforts should also ensure access to markets for US exports to support domestic production. Limit punitive actions (tariffs, sanctions, controls) that may preemptively disrupt supply. (Congress, USTR, Commerce, Treasury)

## Facilitate people-to-people exchanges

COVID-19 and related travel restrictions have decimated face-to-face interactions between the United States and China at a time when exchange between the people of our countries is more important than ever.

1. **Negotiate measures to safely facilitate more US-China travel during the ongoing pandemic:** Currently, China only issues limited temporary visas to US nationals and requires a 14-day quarantine upon arrival. The United States also maintains travel restrictions on Chinese nationals. The administration should negotiate protocol to facilitate business travel between the two countries and reach an understanding on conditions for further relaxation of travel restrictions. We are also concerned about visa restrictions broadly targeting the 92 million members of the Chinese Communist Party and their families, which threatens normal business travel. Any visa restrictions should be narrow and targeted. (State Department, MOFA)
2. **Ensure H1-B visa rules allow access to the talent US companies need:** Chinese and other foreign talent make a significant contribution to American technology competitiveness. The new administration should encourage Congress to raise the cap on H1-B visas and remove limits on H1-B visas for those with advanced degrees. (White House, Congress)

3. **Remove unnecessary national security restrictions for Chinese students and scholars to participate in US higher education:** Over the past year, the US government has restricted the entry of Chinese students and researchers that are perceived to support China's civil-military fusion program. The new administration should ensure that visa-screening measures are narrowly scoped to prevent access to sensitive programs, but avoid overly restricting the number of high-level foreign STEM researchers in the United States. **(State Department)**
4. **Restore US-China educational and cultural exchange programs:** The new administration should re-establish the Fulbright, Peace Corps, and other exchange programs in China. **(State Department)**
5. **Take a constructive approach to China hosting the 2022 Olympics:** The Olympics in Beijing will be a high-profile opportunity to promote US soft power and expand people-to-people exchanges. A US boycott of the games would waste this opportunity, and may even lead to retaliation against US companies in China.

## Re-establish US leadership in regional and global economic architectures

China has dramatically increased its participation in multilateral organizations that the United States and its allies founded, from the World Trade Organization (WTO) to international financial institutions and standards-setting bodies. This has brought many important benefits to the world, including realizing comparative advantages in trade, increased accessibility of financing, and making products more interoperable. A United States that is actively involved in multilateral institutions, party to high-standards trade agreements, and working with allies to strengthen and reform these architectures will create meaningful leverage to encourage China to act as a responsible global stakeholder and enact domestic reforms.

### *WTO and other multilateral organizations*

1. **Advance reform of WTO rules on subsidies and SOEs:** Continue trilateral efforts with the EU and Japan on rules on subsidy and SOE reform at the WTO aiming to reach common ground with these countries and expand the work to a larger coalition. **(USTR)**
2. **Lead WTO Appellate Body reforms:** US refusal to appoint new judges to the WTO Appellate Body have rendered it inoperative since December 2019. The new administration should lay out clear demands and a path forward to appoint new judges. **(USTR)**
3. **Advance WTO negotiations on ecommerce:** China and the United States are both part of the Joint Statement Initiative plurilateral negotiations on ecommerce trade rules. The new administration should play a leading role at the WTO in setting high-standard rules for global digital trade without overbroad exceptions, including using the negotiations to get China to make commercially meaningful commitments on cross-border data flows, the prohibition of data localization, and services market access. **(USTR)**
4. **Advance negotiations on China's Government Procurement Agreement (GPA) accession:** China submitted a new offer to join the WTO's GPA in late 2019. The United States should work with other parties to the GPA to push negotiations forward and encourage China to submit a new offer and eventually join. **(USTR)**



5. **Reengage with China in international forums for health and environment:** The administration should rejoin the World Health Organization (WHO) and Paris Agreement to exert US leadership in international forums for health and environment. Participating in the WHO in particular provides an important opportunity to work with China on COVID-19 response and a strategy for vaccine distribution. **(White House)**

#### *Multilateral trade agreements*

1. **Comprehensive and Progressive Trans-Pacific Partnership (CPTPP):** Within 18 months, the United States should re-evaluate the costs and benefits of joining CPTPP as well as the terms under which the United States would consider accession. The United States should promote the agreement on the basis of the high standards it sets for trade and commerce in the region. Specifying that it keeps China from setting the rules is unnecessary and it undermines reformers in China's domestic market. **(USTR)**

#### *International standards*

1. **Bolster US participation in international standards-setting bodies:** The administration should support US stakeholders with resources to enhance consistent, diverse, industry-led participation in international standards setting. With input from industry, the administration should conduct studies to identify the most effective ways to provide support and work with Congress to determine availability of funding. **(NIST, Congress)**
2. **Provide timely visa approvals for Chinese participants in US-hosted meetings:** The ability for Chinese participants to attend standards-setting meetings in the United States is critical for America to remain a desirable location to host these meetings and maintain its level of influence in international standards setting. The administration should develop a set of protocols to review visa applications specifically for participation in standards-setting activities. **(State Department)**
3. **Clarify application of export controls to standards-setting activities:** The lack of clear guidance on how export control restrictions apply to regular interactions with entity-listed Chinese participants in international standards-setting activities has hindered US company participation and leadership in certain forums. The administration should issue additional guidance on how export controls apply to interactions with entity-listed companies as soon as practicable. **(BIS)**
4. **Encourage China to continue aligning domestic and international standards:** The US government should encourage China to increase adoption of international standards with a focus on identical, rather than modified, adoptions. The government should work with industry to identify key Chinese standards impacting US business that do not align with international standards or create barriers for US companies and raise them in conversations with Chinese counterparts. **(NIST, SAC)**



## Appendix: List of Abbreviations

<b>BIS</b>	Bureau of Industry and Security (Department of Commerce)
<b>CBIRC</b>	China Banking and Insurance Regulatory Commission
<b>CFA</b>	China Film Administration
<b>CNIPA</b>	China National Intellectual Property Administration
<b>CSRC</b>	China Securities Regulatory Commission
<b>CFIUS</b>	Committee on Foreign Investment in the United States
<b>CBP</b>	Customs and Border Protection
<b>CAC</b>	Cyberspace Administration of China
<b>DHS</b>	Department of Homeland Security
<b>GACC</b>	General Administration of Customs of China
<b>ITA</b>	International Trade Administration
<b>MARA</b>	Ministry of Agriculture and Rural Affairs
<b>MOFCOM</b>	Ministry of Commerce
<b>MOF</b>	Ministry of Finance
<b>MOFA</b>	Ministry of Foreign Affairs
<b>MIIT</b>	Ministry of Industry and Information Technology
<b>MPS</b>	Ministry of Public Security
<b>NCAC</b>	National Copyright Administration of China
<b>NDRC</b>	National Development and Reform Commission

<b>NHC</b>	National Health Commission
<b>NHSA</b>	National Healthcare Security Administration
<b>NIST</b>	National Institute of Standards and Technology
<b>NMPA</b>	National Medical Products Administration
<b>NRTA</b>	National Radio and Television Administration
<b>NSC</b>	National Security Council
<b>OFAC</b>	Office of Foreign Assets Control
<b>PBOC</b>	People’s Bank of China
<b>USTR</b>	Office of the United States Trade Representative
<b>SAC</b>	Standardization Administration of China
<b>SASAC</b>	State-owned Assets Supervision and Administration Commission
<b>USAID</b>	United States Agency for International Development
<b>USDA</b>	US Department of Agriculture