

China's Retaliatory Measures in Response to US Sanctions Put US Firms at Risk

We assess that China is likely to take a wait-and-see approach after the presidential transition before using recently issued rules to protect its firms against “unjustified” US laws, mitigate the effects of sanctions, and retaliate against the United States for its continued sanctions pressure. In addition to its “Unreliable Entities” list and export-control law, China has [recently augmented](#) its toolbox to allow it to lessen the effects of US sanctions and strike back at the United States by creating additional compliance burdens or imposing trade restrictions on US firms and multinational corporations.

The Tools

On January 9, China [issued new regulations](#) to push back against a series of Trump administration executive orders that blacklisted Chinese companies and restricted their access to US technologies. China’s order protects its firms from “unjustified extraterritorial application of foreign laws” and authorizes its courts to punish multinational companies for complying with foreign restrictions and overturn foreign judgments against Chinese companies. In addition, the new rules allow Chinese authorities to issue orders absolving Chinese individuals from the obligation to comply with foreign restrictions. So far, China has only announced [entry bans](#) on several US officials and has refrained from using its new tools to blacklist US companies.

- In September 2020, China’s Commerce Ministry released the provisions of its [Unreliable Entities List](#) under which Beijing could impose punitive measures on designated foreign entities, including companies or individuals, for conduct it deems contrary to China’s national interests. The measures could include trade and investment restrictions and travel bans against foreign entities that suspend “normal transactions” or engage in “discriminatory measures” against Chinese firms.
- China’s [export control law](#) went into effect on December 1, 2020 with the goal of [protecting China’s](#) “national security and interests.” [Ambiguities](#) in the law create uncertainties for affected firms, and the lack of some critical definitions could result in supply-chain disruptions and *ad hoc* interpretations of the law, placing additional compliance burdens on US companies operating in China.

What to expect

We assess that Beijing has not given up hope for improved relations with the United States and will wait until the Biden administration begins to implement its foreign policy and sanctions regime before blacklisting or suing US firms. However, the Biden administration [is likely to maintain](#) sanctions pressure on China in light of Beijing’s continued human rights [violations](#), likely denying President Xi Jinping a much-needed public relations victory this year. Nonetheless, Xi will probably temper the need to save face and appear tough to an increasingly [nationalistic](#) domestic audience with judicious use of China’s new tools to ensure that China’s sanctions do not harm domestic firms.

- Despite the [emphasis](#) the Chinese Communist Party places on self-reliance and domestic innovation, China is still far from independent from US technology. We therefore assess that Beijing will be cautious when



blacklisting US companies, or placing restrictions on rare earth and other exports, and large Chinese companies will seek to avoid hindering their global aspirations and will wait for signals from the government before suing their global counterparts.

- China will probably target US and EU entities that have only a limited presence in China but play well to support Chinese rhetoric and discourage further US actions. Non-governmental organizations or other institutions Beijing views as “hostile,” tech companies that are already blocked or have established equivalents in China, and US companies that China has already [publicly targeted](#), such as the US defense contractors that sell weapons to Taiwan, could be included on Beijing’s “Unreliable Entities” list.
- Even companies that have a significant presence in or enjoy a relatively amicable relationship with China are not completely safe should China retaliate against western sanctions by suing multinational corporations to deter further restrictions. In August 2020, Chinese [company Xiao-i sued](#) Apple Inc. for alleged patent infringement, shortly after China’s Supreme Court upheld the validity of its patent for a virtual assistant similar to Siri. Since 2012, Apple has faced three intellectual property lawsuits in China.

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