

# Actions the Administration Has Taken and Unused Authorities

The executive branch has considerable existing authority to sanction Chinese individuals and entities for a variety of reasons, including national security, economic, and human rights. These tools can be used in concert with each other and their severity can be calibrated to achieve policy goals.

## 1. The Global Magnitsky Act (Glomag)

**Authority:** Allows the State and Treasury Departments to restrict the travel and freeze the assets of any individuals who have committed gross violations of human rights.

**Application:** The United States has not used Glomag against any Chinese officials or entities. The Administration has enacted and Congress is advancing legislation that mandates—with some exceptions—its use on certain issues, such as human rights violations in Hong Kong and Xinjiang.

## 2. Entity List and Denied Persons List

**Authority:** The Commerce Department Entity List contains a list of names of certain foreign persons—including businesses, research institutions, and individuals—that are subject to specific license requirements for the export controls. The Commerce Department Denied Persons List is a list of foreign people and companies whose export privileges have been denied.

**Application:** The Trump Administration had put ZTE on but then removed it from the Denied Persons List. Several Chinese entities, including Huawei and Hikvision, have been put on the Entity List.

## 3. Specially Designated Nationals (SDN)

**Authority:** Inclusion on the Treasury Department's SDN list generally prohibits U.S. banks from maintaining accounts for listed persons and U.S. persons could face civil or criminal penalties for doing business with them.

**Application:** The Trump Administration has not added any Chinese entities or individuals to the SDN list; however, there had been speculation that the Administration considered adding Huawei to the list.

## 4. Executive Order 13694: Malicious Cyber-Enabled Activities

**Authority:** Gives broad authority to the president to block the property of companies involved in or benefitting from the theft of trade secrets through cyber-enabled means.

**Application:** This EO has not been used against any Chinese entity but could have broad application due to the number of Chinese companies benefiting from stolen American intellectual property.

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## 5. Executive Order 13873: Securing the ICT Supply Chain

**Authority:** Authorizes the Commerce Secretary to regulate the acquisition and use of information communications technology and services (e.g. any hardware, software, or service) from a “foreign adversary”—likely to include China.

**Application:** Public commenting on the draft rules closes on December 27.

## 6. The Anti-Boycott Act

**Authority:** Encourages and in some cases requires U.S. firms to refuse to participate in foreign boycotts that the United States does not sanction.

**Application:** This Act has not been applied in response to actions by the Chinese government. Some have considered its application on Chinese companies that threatened to end ties with the NBA.

## 7. Trade Authorities

**Authorities:** Section 301 of the Trade Act of 1974 and Section 337 of the Tariff Act of 1930 as well as countervailing duties and anti-dumping allow tariffs and import bans to be used as remedies for a variety of violations, including IP theft and subsidies.

**Application:** All four trade tools have been used with respect to China.

## 8. International Emergency Economic Powers Act (IEEPA)

**Authority:** Broad powers to deal with any “unusual and extraordinary threat” to the United States.

**Application:** The last two administrations have used authorities under IEEPA as the legal basis to issue various executive orders, such as EO 13694 (cyber-enabled activities) and EO 13873 (securing the supply chains).