

# Actions the Administration Has Taken and Unused Authorities

The executive branch has existing authority to sanction Chinese individuals and entities for a variety of reasons, including protecting our national security and defending our human rights and economic interests. This Administration has used many of these tools on Chinese individuals and entities, including blocking certain Chinese entities access to U.S. technology through export controls and raising import duties on Chinese goods through trade authorities.

## 1. The Global Magnitsky Act (Glomag)

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

**Application:** This Administration has placed Glomag sanctions on one Chinese person.

## 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 license requirements for the export of specific items. The Commerce Department Denied Persons List is a list of foreign people and companies whose export privileges have been denied.

**Application:** Several Chinese entities, including Huawei and companies linked to repression in Xinjiang, are on the Entity List. The Trump administration had put ZTE on the Denied Persons List but later removed it following a settlement with the company.

## 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 placed or maintained more than 175 Chinese persons on the SDN 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 Information and Communications Technology and Services Supply Chain

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

**Application:** The final rule has not been released yet.

## 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.

## 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).

## 9. International Investment Survey Act of 1976

**Authority:** The Act allows the President to request mandatory surveys of companies under specific deadlines with the ability to invoke civil and criminal penalties for noncompliance.

**Application:** It does not appear this authority has been invoked for China but could be used to gather information on several areas of potential congressional concern, including the status of medical supply production, distribution, and export policy situation facing U.S. companies overseas.



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## 10. Section 212(a)(3)(C) of the Immigration and Naturalization Act

**Authority:** Allows the Administration to make certain classes of aliens ineligible for visas for or admission to the United States, including for foreign policy and security reasons.

**Application:** The Administration used this authority to impose visa restrictions on Chinese government and Communist Party officials it believes are responsible for the detention and abuse of Muslim minorities in Xinjiang province.

## 11. Foreign-Produced Direct Product Rule

**Authority:** A foreign-produced item may be considered a “direct product” of the United States and subject to the U.S. Export Administration Regulations if the foreign-produced item is based on certain U.S. technology.

**Application:** The Administration amended this rule to narrowly and strategically target Huawei’s acquisition of semiconductors that are the “direct product” of certain U.S. software and technology.

