
THE STRATEGIC COMPETITION ACT (2021)

HONG KONG WATCH'S ANALYSIS AND RESPONSE

Background

Senator Bob Menendez, Chair of the United States (US) Senate Foreign Relations Committee, announced on 8 April 2021 a sweeping package of legislation which would mandate diplomatic and strategic initiatives to counteract the Chinese Government's increasing authoritarian positioning abroad.¹

The Strategic Competition Act of 2021, would be the most important and far-reaching piece of China legislation to be adopted by the US Congress since the Hong Kong Policy Act (1992), formalising the bi-partisan consensus that has emerged in the United States of America (USA) in recent years that the PRC is a 'strategic competitor'.²

Summary

Formalising 'Strategic Competition' with the PRC

- The Strategic Competition Act (2021) states that *'the PRC is leveraging its political, diplomatic, economic, military, technological, and ideological power to become a strategic, near-peer, global competitor of the US'* and that *'the policies increasingly pursued by the PRC in these domains are contrary to the interests and values of the US, its partners, and much of the rest of the world.'*
- It formalises the policy objective of the USA to 'sustain its global leadership role' of the international-rules based order in the face of 'strategic competition from PRC' by marshalling 'sustained political will to protect its vital interests, promote its values, and advance its economic and national security'.
- To achieve this objective, the bill calls for the US Government to convince the American people and allies of the challenges posed by the PRC and the need for long-term economic competition, while also condemning rising levels of anti-Asian American discrimination.

A coordinated cross-departmental strategy for competing with the PRC abroad

- The Strategic Competition Act (2021) requires the President of the USA to lead and direct the entire executive branch to form a coordinated strategy which formalises the PRC as the greatest geopolitical and geo-economic challenge for US foreign policy. This includes the appointment of a senior official in every federal department to coordinate the department's policies with respect to strategic competition with the PRC.

¹ <https://www.foreign.senate.gov/imo/media/doc/DAV21598%20-%20Strategic%20Competition%20Act%20of%202021.pdf>

² <https://www.bloomberg.com/news/articles/2021-04-08/senate-s-china-strategy-takes-shape-with-bill-to-invest-in-u-s>

- The legislation requires the President to submit to Congress no later than 90 days after the bill has become law, a strategy for competition with China in the Caribbean and Latin America, Africa, the Asia-Pacific Region, Europe, and the Antarctic.

Deepening partnerships with US Allies in the region

- The bill formalises the 'Quad' and ASEAN as the key vehicles for the US to maintain and strengthen its alliances and role within the Asia-Pacific region. As well as committing to deepen US military and trade relations with South Korea, Japan, the Philippines, Taiwan, Australia, and other partners.
- The legislation would commit the US Government to increase the number of US diplomatic personnel in US embassies and consulates in the Asia-Pacific region. It would also task US embassies and consulates with advising US supply chains on how they could relocate out of the PRC back to the US or to US allies within the region.

Challenging the Belt and Road Initiative

- The Secretary of State, in coordination with other federal agencies, would be required to report on the level of US support currently being offered to provide critical infrastructure, particularly in energy, transport, telecommunications and digital sectors, to US allies and the rest of the world.
- The Strategic Competition Act (2021) would authorise the Secretary of State to create the 'Infrastructure Transaction Assistance Network' which would help with the development of high-quality infrastructure in the Asia-Pacific region.
- It formalises the priority of the US negotiating Digital Trade Agreements and the creation of a 'Digital Connectivity and Cybersecurity Partnership' with key allies.
- The legislation would commit the US to explore debt-relief for developing countries that have increased their debt as a result of COVID-19.

Countering 'malign influence' at home, abroad, and within international institutions

- The legislation authorises funding for the US Government to counter the 'malign influence' of the Chinese Communist Party abroad, including funding the promotion of free and independent local media and improving resilience to counter disinformation campaigns.
- As part of the legislation, the US Government will be required to review foreign investment in the US, including improving reporting requirements for foreign gifts to US higher education institutions.
- The USA would introduce an 'Intellectual Property Violators' list of Chinese state-owned enterprises who have benefited from stolen intellectual property from the US.
- The Strategic Competition Act (2021) commits the US Government to revitalise US leadership at the UN, through the creation of a special representative at the UN.
- The legislation requires the President to submit to Congress no later than 90 days after the bill has become law, a strategy for competition with China in the Caribbean and Latin America, Africa, the Asia-Pacific Region, Europe, and the Antarctic.
- As part of the bill, countries that host Chinese military bases or are closely aligned with the Chinese Communist Party could have financial assistance from the USA removed.

Hong Kong

- The Strategic Competition Act (2021) commits the US Government to utilise resources to support the pro-democracy movement in Hong Kong.
- The legislation requires the Secretary of State in consultation with other government departments to publish an assessment not later than 180 days after the bill becomes law, assessing the extent to which China is using Hong Kong to circumvent US export controls, US sanctions, to conduct espionage on US citizens or uses 'formal or informal means to extradite or coercively move individuals, including US citizens, from Hong Kong to the mainland'.

PROPOSALS TO STRENGTHEN THE LEGISLATION

1. Adopt the proposals in the Hong Kong Safe Harbor Bill

- As the Chinese Communist Party tightens its grip on Hong Kong's fundamental rights and freedoms, the people of Hong Kong, especially protesters, are in desperate need of a lifeline out of the city. The US should join the U.K., Canada and Australia in providing them a safe harbor as soon as possible and continue to work with our international allies to support the people of Hong Kong.³
- The Safe Harbor Act, proposed by Senator Menendez and Rubio, provides a ready-made set of proposals which fit within the scope of the wider China package in the legislation.
- The bill would:
 - Grant certain Hong Kongers Priority 2 Refugee Status: Hong Kongers who participated peacefully in the protest movement and have a well-founded fear of persecution will be eligible for Priority 2 Refugee processing in Hong Kong or a third country. Refugees from Hong Kong will not be subjected to the numerical limitation.
 - Waive Immigration Intent as a Factor for Non-Immigrant Visas : For those Hong Kongers who have been arrested for protest-related offenses or served in a humanitarian or organizing role in the protests, the intent to immigrate will not be considered as a factor for non-immigrant visas to ease the way for an asylum claim.
 - Treat Revocation of Hong Kong Residency in Retaliation for Applying for Refugee Status or a U.S. Visa as Political Persecution : If Beijing revokes the residency of Hong Kongers for applying for refugee status or a U.S. visa, then those individuals will remain eligible for refugee status as victims of political persecution.
- These ideas carry the support of ten senators from both parties, including Senators Todd Young, Ben Cardin, John Cornyn, Jeff Merkley, Elizabeth Warren, Dick Durbin, James Lankford, Ron Wyden, Richard Blumenthal and Chris Coons.

³ <https://www.hongkongwatch.org/all-posts/2021/2/18/hong-kong-watch-endorses-reintroduction-of-the-hong-kong-safe-harbor-act-in-the-us-senate>

2. Stop US investment into Chinese firms known to be complicit in gross human rights abuses or funding the People's Liberation Army.

- Despite the situation in Hong Kong, the coronavirus pandemic, and the US-China Trade War driving a growing fissure between China and the West, ties between China and Global Finance are growing, and the total value of China's stock market has hit record highs.⁴
- In 2020, foreign investors snapped up more than Rmb1tn worth of Chinese stocks and bonds as major market investment indices have increased the presence of Chinese stocks and bonds.
- Hong Kong is often the conduit for these capital flows, with the Hong Kong-Shanghai Stock Connect providing a springboard for billions of dollars of investment by Western firms into China.
- Investment via passive exchange traded funds which track global indices offer little to no leverage to investors to scrutinise and call-out problematic practices. The MSCI Emerging Markets Index is now weighted so that nearly 40% of the index is made up of Chinese equities.
- US-China Economic and Security Review Commission (2020: 268)⁵ note that:

"The passive investment management style associated with index funds can preclude investors from being fully aware of the constituent securities in which they are investing, raising the risk that they may unintentionally provide material support to Beijing's industrial policy goals or problematic companies."

- However, there is growing awareness in financial and policy circles of the need to scrutinise capital flows. The ethical implications of investing in equities tied to gross human rights abuses is going up the ESG agenda. It is critical that regulations are put in place to ensure that American institutional investors are not inadvertently funding either the Chinese military or firms complicit in the creation of the Xinjiang surveillance state.
- There have been attempts to legislate stop problematic investments, including Senator Rubio's *American Financial Markets Integrity and Security Act* (October 27, 2020), as well as executive action towards the end of the previous administration.⁶ The scope of the Strategic Competition Act ensures that this legislation provides an opportunity for these ideas to be refined and adopted with bipartisan consensus through Congress.

⁴ <https://www.ft.com/content/7e2d1cae-8033-45b1-811c-bc7d4a413e33>

⁵ <https://www.uscc.gov/annual-reports>

⁶ <https://www.rubio.senate.gov/public/cache/files/16620203-81bf-4d78-8401-f82663454452/BECAC12B80714E0B655DD8B8CD780612.rubio---american-financial-markets-integrity-and-security-act---bill-text-final-10.26.20.pdf>