

U.S. Should Restrict Investment in China Due to Security Concerns, Panel Says

Warnings from a commission convened by Congress come after Biden and Xi sought to ease tensions

By Kate O’Keeffe

A commission of security and economic experts convened by Congress recommended that the U.S. take more aggressive steps to dial back commercial ties with China, warning of heightened national security risks.

The [annual report](#) from the influential U.S.-China Economic and Security Review Commission called for imposing restrictions on U.S. investment in China and limiting investors’ ability to buy U.S.-listed Chinese stocks.

The report, whose publication Wednesday follows a [Monday virtual meeting](#) between President Biden and Chinese President Xi Jinping that sought to ease U.S.-China tensions, underscores the challenges the Biden administration faces keeping its powerful adversary in check.

Although rhetoric between Washington and Beijing has been tense, **[the bilateral trade imbalance is returning to levels last seen before the U.S. government imposed tariffs on Chinese imports in 2018, and U.S. capital flows to China are on the rise](#)**, the commission said in its report.

That economic interdependency is particularly concerning now, the panel said, because of [Mr. Xi’s recent moves](#) to “assert unassailable authority” over China’s corporate sector,

blurring the lines between ostensibly private Chinese companies and those that are officially state-run by the Chinese Communist Party.

In turn, “U.S. businesses and investors must recognize that their participation in the Chinese economy is conditioned by the CCP’s policy priorities and subject to its control,” the panel warned.

Mr. Biden said he was clear with Mr. Xi during the Monday meeting about the need to protect American workers and industries from China’s “unfair trade and economic practices.” **Mr. Xi said the U.S. should stop suppressing Chinese companies through the lens of national security**, according to state media.

While the U.S.-China Commission had been known for its hawkish perspective on China, its views have found a mainstream audience as members of the Trump and Biden administrations, and both parties in Congress, have sought [its input on policies](#). Carolyn Bartholomew, a longtime senior aide to House Speaker Nancy Pelosi, is chairwoman of the panel, whose members are appointed by the Democratic and Republican leaders of the House and Senate. Commissioners come from business, labor, academic and political backgrounds and work with a full-time professional staff to produce research.

One of the panel’s top recommendations is that Congress create an authority to screen—and potentially block—U.S. investments in China that could harm national security.

Sens. Bob Casey (D., Pa.) and John Cornyn (R., Texas) are sponsoring legislation with a similar aim, and national security adviser Jake Sullivan said in a July speech that the administration is “looking at the impact of outbound U.S. investment flows that could circumvent the spirit of export controls or otherwise enhance the technological capacity of our competitors in ways that harm our national security.”

Any push by lawmakers or the Biden administration to clamp down on U.S. investment in China is likely to face stiff opposition from business groups. **The U.S.-China Business Council, which is lobbying against the *Casey-Cornyn bill*, [has said that](#) “regulation of outbound capital flow is unprecedented in 250 years of American history.”**

The commission also suggested that Congress consider banning investment in U.S.-listed companies operating Chinese businesses through so-called *variable interest entities*. Many Chinese companies seeking to list on U.S. exchanges use VIE structures to get around China's foreign ownership restrictions. "A U.S.-listed company and its China-based VIE might appear to be the same company...but they are not," a September Securities and Exchange Commission [bulletin said](#).

The U.S. company's control over the Chinese company is predicated entirely on contracts as opposed to equity ownership, the SEC warned, adding that U.S. investors could suffer major losses with no recourse if the Chinese government—which never expressly greenlighted the VIE structures to begin with—determines they are no longer acceptable.

Other Chinese regulatory crackdowns [wiped some \\$400 billion off the value](#) of U.S.-listed Chinese companies in July, The Wall Street Journal reported.

The commission also recommended that Congress create an interagency Technology Transfer Review Group with the Defense Secretary as chairman to identify critical technologies and to direct the Commerce Department to implement associated export controls.

*Sen. Bob Casey (D. Pa.) is sponsoring legislation
about U.S. investments in China.*

The recommendation follows a June report by the commission concluding that the Commerce Department had "failed to carry out its responsibilities" to create lists of technologies earmarked for protection from foreign rivals, leaving [gaps in the export control system](#) and hampering the ability of the Committee on Foreign Investment in the U.S. to identify deals it should screen for national security risks.

At the time, Commerce said that because “innovation is not static and technology triggering national security concerns can evolve over time, the goal to identify these technologies will be a continuous effort and will not be an objective that is ‘finished’ or ‘complete.’”

On the security front, the commission found that the People’s Liberation Army is at or near initial capability to invade Taiwan, a self-ruled island that Beijing has vowed to take over—including by force if necessary—because it claims it as part of China.

It also said that Beijing has departed from its long-held minimalist nuclear posture and is now carrying out its most substantial effort to bolster its nuclear forces since first acquiring the weapon in the 1960s.

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