

KIRKLAND & ELLIS

Kirkland Alert

2020 Democratic Presidential Candidates on Trade

03 February 2020

With the Iowa caucuses signaling the onset of peak presidential primary season, now is a time to look at the positions of the major Democratic candidates on international trade and the national security dimensions of technology competition. On sanctions, the candidates favor a multilateral approach working along with U.S. allies with its attendant advantages and disadvantages. On tariffs, they are of the view that whether they impact U.S. industry and its workers should be checked regularly. Regarding national security, the candidates believe in regulating foreign access to certain U.S. technologies. With respect to trade agreements, they endorse seeking structural change in bilateral trading relationships.

This summary is based on publicly reported comments from the leading Democratic presidential candidates from the period June 2019 to January 2020. On some issues there are key differences with the Trump administration's current approach, while on others what is proposed is not markedly different.

Sanctions

Despite its impact on commercial trade, the Trump administration has actively deployed U.S. economic sanctions as a tool of national security policy. For example, it has designated the entire government of Venezuela as a sanctioned party, as well as imposed multiple rounds of sanctions on Iran after withdrawing the U.S. from the Iran nuclear deal known as the Joint Comprehensive Plan of Action ("JCPOA").

Former Vice President Biden [on Venezuela](#):

"The U.S. should push for stronger multilateral sanctions so that supporters of the regime cannot live, study, ship, or hide their assets in the United States."

Sen. Bernie Sanders, I-Vt., [on Iran](#):

“What we need to do is have an international coalition. We cannot keep acting unilaterally.”

The Trump administration has sought to leverage the market power of the U.S. to apply “[maximum pressure](#)” on sanctions targets, denying them access to U.S. dollars to try to cut off their sources of revenue. It disfavored the JCPOA, believing it did not do enough to restrain Iran’s destabilizing behavior generally. Instead, the Democratic candidates prefer the U.S. rejoin the JCPOA, so long as Iran adheres to its nuclear commitments.

Tariffs

The Trump administration has turned to tariffs as a lever to try to reduce trade deficits and seek to establish leverage in trade negotiations. For example, it has imposed tariffs on [\\$370 billion](#) in imports from China impacting a variety of sectors, and in sectors such as steel and aluminum, it has imposed tariffs impacting several countries, such as Canada, Mexico and those in the EU.

Former New York Mayor Michael Bloomberg [on tariffs](#):

“Trump’s tariff war with China and other nations has cost American businesses and consumers billions of dollars in increased costs.”

Sen. Elizabeth Warren, D.-Mass., [on tariffs](#):

“I will fight to change our trade laws so that we review duties every six months and lift the duties if companies can’t demonstrate the benefits of the duties are going to their workers.”

The Trump administration’s view is that foreign countries effectively pay the tariffs as the devaluation of their currencies to offset higher product costs cuts their own profit margins. However, the Democratic candidates focus on tariffs as an import tax, raising the cost of products U.S. companies purchase for their own manufacturing, increasing pressure to lay off workers.

National Security & Technology Competition

There is a broad effort underway within the U.S. government to regulate advanced technologies such as 5G, as the race against countries like China to establish market leadership has important national security implications. For example, there is an initiative to restrict access to “[emerging technologies](#),” including in artificial intelligence, robotics and quantum computing.

Former South Bend, Indiana, Mayor Pete Buttigieg [on artificial intelligence](#):

“China is investing so they could soon be able to run circles around us in artificial intelligence.”

Andrew Yang [on advanced technologies](#):

“We must heavily invest in quantum computing technology so that we develop our own systems ahead of our geopolitical rivals.”

The Trump administration has been concerned that China requires U.S. companies to transfer technology in exchange for market access, while sponsoring efforts to acquire U.S. technology companies. These [issues were the underlying cause](#) of the “trade war.” The Democratic presidential candidates are sensitive to this larger strategic competition as well.

Trade Agreements

The U.S. recently signed the “[Phase One](#)” trade deal with China, the culmination of three years of effort by the Trump administration to try to prod China to change its trade practices. There is criticism it does not go far enough, though there appears to be some alignment in the overarching priorities for achieving a more constructive U.S.-China trade relationship overall.

Biden [on the China trade deal](#):

“The deal won’t actually resolve the real issues at the heart of the dispute, including industrial subsidies, support for state-owned enterprises, cybertheft, and other predatory practices in trade and technology.”

Sanders [on trade agreements](#):

“We must also add to the core text of every U.S. trade agreement, enforceable rules against currency cheating, which allows countries to unfairly dump their products in this country and makes our exports more expensive abroad.”

The Trump administration has indicated that next it will turn to a “Phase Two” negotiation with China on more systemic issues such as cybertheft and subsidies to state-owned enterprises. Though the prospects for achieving such a deal seem doubtful in 2020, both political parties recognize that U.S.-China trade issues extend beyond tariffs and market access.

Key Takeaways

- On sanctions, the leading Democratic presidential candidates favor trying to achieve U.S. objectives through the JCPOA, if Iran abides by its nuclear proliferation obligations.
- On tariffs, the Democratic candidates are of the view that whether they are maintained depends on whether they impact U.S. companies and consumers.
- On national security, the candidates believe the U.S. must control foreign access to advanced technologies, particularly given the strategic competition with China.
- On trade agreements, they are in accord that structural issues need to be addressed to form a sound trade relationship.

* * *

Anchored in Washington, D.C., Kirkland & Ellis’ [International Trade and National Security Practice](#), in coordination with the Firm’s global offices and related practice areas, serves as a trusted adviser to companies, private equity sponsors and financial institutions to identify, assess and mitigate the complex international risks of operating and investing across national borders.

We focus on U.S. and EU economic sanctions (OFAC, EU), export controls (ITAR, EAR), anti-money laundering (AML), national security investment reviews (CFIUS) and related areas. We regularly work with our clients on a global basis on transactional, regulatory counseling, and investigative and enforcement matters, providing seasoned, holistic and sound advice.

Authors

[Mario Mancuso, P.C.](#)

Partner / [Washington, D.C.](#) / [New York](#)

[Anthony Rapa](#)

Partner / [Washington, D.C.](#)

[Abigail E. Cotterill](#)

Of Counsel / [Washington, D.C.](#)

[Sanjay José Mullick](#)

Partner / [Washington, D.C.](#)

[Anais Bourbon](#)

Law Clerk / [Washington, D.C.](#)

Related Services

Practices

- [International Trade & National Security](#)
- [Transactional](#)

REPRINTED WITH PERMISSION FROM THE JANUARY 30, 2020 EDITION OF *LAW360*

© 2020 PORTFOLIO MEDIA INC. ALL RIGHTS RESERVED. FURTHER DUPLICATION WITHOUT PERMISSION IS PROHIBITED.

WWW.LAW360.COM

This publication is distributed with the understanding that the author, publisher and distributor of this publication and/or any linked publication are not rendering legal, accounting, or other professional advice or opinions on specific facts or matters and, accordingly, assume no liability whatsoever in connection with its use. Pursuant to applicable rules of professional conduct, portions of this publication may constitute Attorney Advertising.