

What to Watch For in the Year Ahead

We can't predict with certainty, but we can highlight trends.

We had intended to title this article as Predictions for 2021. But we were reminded of a quote by famed American philosopher Yogi Berra who stated: "It's tough to make predictions, especially about the future." With that caution in mind, we offer our thoughts on trends to watch in 2021.

Iran: In the world of sanctions, Iran is always at or near the top. It remains at the top in 2021. Trump's exit from the Joint Comprehensive Plan of Action (JCPOA) and maximum pressure campaign severely harmed the Iranian domestic economy, but it did little to curb Iran's efforts to obtain nuclear weapons. (A goal it denies.) In fact, it had the opposite effect as Iran has again started to process uranium into weapons-grade fuel. President Biden would like to rejoin the JCPOA if Iran is willing to cease efforts to obtain a nuclear weapon. Expect a lot of posturing by both sides. Iran was willing to join talks sponsored by the EU until it wasn't. The US was ready to strive for a peaceful negotiation but then made a missile strike against Iranian interests in Syria. We expect a lot of false starts before the two sides get together. We think negotiation will happen in 2021 but don't expect much in the way of results until 2022 at the earliest. Biden is unlikely to ease sanctions significantly, so keep your guard up.

Trade Activity and Export Control Compliance: With much of North America, Europe, and the wealthier countries in the Middle East and Asia vaccinated by the end of summer 2021, we expect trade and economic activity to pick up. Exporters need to be mindful of new and more comprehensive export rules, particularly from China and the USA. Now is a good time to check to see that your export compliance program is updated and that you understand any new rules that apply to your activity.

The EU will use its "Magnitsky List": As many of you are aware, the EU passed a human rights sanctions provision in late 2020 that was modeled after the US' Global Magnitsky List. The goal of that law is to deter human rights abuses where they occur and punish individuals and entities that participate in any abuse. A likely target will be individuals and entities in Russia and officials in Myanmar (Burma) following the February coup. It will be interesting to see if the EU uses this human rights tool broadly or hardly at all.

Money laundering and Corruption investigations will increase, but the significant fines and settlements won't come until 2022. This is another area where we expect the Biden Justice Department to shift emphasis and open more investigations into corruption and money laundering in partnership with the UK, EU, Singapore, and other jurisdictions worldwide. As investigations take time, we likely won't begin to see results in the form of settlements or indictments until late in 2021 and more likely in 2022. With a new sheriff in town (Biden), it's a good time to re-emphasize your anti-corruption policies and expectations to your employees, business partners, and customers.

China and the World: China's economy continues to grow even during the pandemic. Expect that growth to continue. But it will face new challenges in Biden's continuation of many of Trump's tariffs, renewed efforts by the US and others to slow or prevent critical technology flow to China, and criticism of its human rights record. Although cooperation would be in the best interests of China, the USA, and the world, it will probably not be achieved for various domestic and foreign policy reasons. China is likely to take the stance that the best defense is a good offense and continue the trade restrictions it has already imposed, e.g., restrictions on US and Australian products and enforcement of its new, vaguely worded Export Control Law and the newly created Unreliable Entity List. China will continue to seek new trade partners by offering loans to enhance its belt and road program and vaccine diplomacy by providing vaccines to countries with little access to vaccines. The success of these efforts will diminish over the year as President Biden develops a working group of countries that will reduce technology transfers and begin to impose penalties on China for its human rights record in Xinjiang and elsewhere.

Russian and the World: Russia's relationship with the US will go from good under Trump to poor under President Biden, with the outlook gloomy. Sanctions will be imposed by the US for many reasons, including the jailing of political opposition figures, cyber crimes against the US federal and state governments, interference in elections, adventures abroad, etc. The EU will also impose sanctions for reasons of its own. The increasing price of oil and gas will allow Russian to weather these restrictions in 2021 and even enact counter-measures. But as the world moves into the post-petroleum age, Russia will need to develop its next geopolitical advantage or face increasing isolation from the international community.

Human Rights Including Modern Slavery Will Receive Renewed Prominence: With the election of Joe Biden and renewed European interest in human rights, expect to hear more about this area in 2021. This will be particularly true as the pandemic fades in the summer and fall. The US will likely pass a new law intended to combat modern slavery (forced labor) sometime in 2021. The law will target in part China, but it will have a broader impact. Biden will make human rights an element of his foreign policy. But as we have already seen, human rights will not always be paramount where other significant foreign policy interests are present. Companies that engage or want to engage as reputable multi-nationals on the world stage should review their human rights policies, practices, and training and enhance as necessary. They should also check the policies of their main suppliers, vendors, and customers. This is particularly true where the company itself acts as a supplier or distributor to another multi-national company.

What will President Biden Do?: We have the advantage of seeing Biden in action for about six weeks. He has taken numerous steps to undo Trump's domestic policies. But he has been less active in policies and practices that impact foreign policy, including sanctions and trade. He has left most Trump tariffs in place, including Trump's ill-fated tariffs on French and German wine. **News Flash: The EU and the US reached agreement on March 05 to suspend numerous tariffs for four months, including US tariffs on wine.** Most China tariffs remain. A Trump rule proposed in November to restrict or prohibit

the transfer of critical technology to China will likely go into effect in late March, surprising many who thought the law would be changed or delayed. Expect pressure on China to continue.

Biden has offered to negotiate with Iran in hopes that the US can again join the JCPOA and Iran will cease its efforts to develop nuclear weapons. But Biden has not met a demand by the Iranians to remove Trump-imposed sanctions. We think that Biden will revoke some sanctions, particularly those that will have a humanitarian impact. But he will not order a complete reset unless the Iranians reciprocate by destroying any enhanced uranium and undoing other violations of the JCPOA.

Biden has already imposed a new sanctions program on Myanmar (the previous program had been revoked). He has said new sanctions on Russia are coming for a Russian opposition leader's poisoning and hacking into US commercial and government computer services. He has ordered at least one military strike (on Syria). All in all, we expect Biden to be pragmatic, slow, and steady in his trade and sanctions policies. Significant changes are unlikely absent unexpected world events or after long and careful study.