THE ERA OF GREAT TRAGEDY ACCOUNTABILITY

U.S. Policy Toward China after the Outbreak of COVID-19

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TOP LINES

- China's dereliction of responsibility and lack of transparency at the onset of the COVID-19 pandemic along with growing evidence in favor of the "Wuhan Lab Leak" theory—the idea that SARS-CoV-2 originated in a leak from the Wuhan Institute of Virology (WIV) rather than from a naturally-occurring animal spillover to humans signals a needed shift in U.S. policy toward China.
- Moving forward, the framing of U.S. policy towards China should shift to one of "great tragedy accountability" that recognizes China's culpability in the spread of COVID-19— which has resulted in more than 4.5 million deaths worldwide (and counting)—as well as its serial human rights violations, stealing of intellectual property (IP), trade distortions, flouting of international norms, and cooptation of multilateral institutions.
- Budgetary and policy decisions should accompany a strategic focus in a way that immediately prioritizes restitution of losses to life, health, and economic well-being related to COVID-19 and that move beyond simply tolerating and complaining about China's lawless behavior to actively countering it.
- "Great tragedy accountability" should inform how the U.S. works with other nations on a coordinated approach to China—namely, building international consensus around the need to hold China accountable for lives lost and harm to the economic well-being of other nations. Where existing alliance structures are limited in advancing this policy agenda, the U.S. could adapt them or introduce new multilateral frameworks for doing so.
- "Accountability," rather than "competition," is a more appropriate paradigm through which to pursue priorities vis-à-vis China, from its violations of human rights and international norms to its breaches of anti-dumping regulations and its cooptation of multilateral institutions.
- By immediately holding China accountable through restitution efforts and building new global efforts focused narrowly on violations of international standards and human rights, the United States will undercut China's long-term ambitions.

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INTRODUCTION

In light of recent evidence, the reemergence of the "Wuhan Lab Leak" theory—the idea that COVID-19 originated in the WIV rather than from a naturally-occurring animal spillover to humans—raises a series of definitional and structural questions about biodefense and public health, as we argue in a recent paper (Kellogg, Olidort, Overton, 2021b). As this paper will explain, the policy suggestions made in that paper reflect a new direction for U.S. policy toward China that advances further the policy shift from 2017 through 2020.

The National Security Strategy (NSS) and the National Defense Strategy (NDS) documents published by the Trump Administration introduced the concept of "a new era of great power competition" with China and Russia (National Security Strategy, 2017; National Defense Strategy, 2018). These doctrinal shifts were informed by the well-placed assumption that America's focus on counterterrorism since the 9/11 attacks diverted both resources and policy attention away from the accelerating advances made by the People's Republic of China, particularly in economic, technological, and military capabilities, as well as its global ambitions. The previous administration's approach rightfully continues to guide U.S. policy, represented by the hundreds of changes across the federal government shepherded over the last 4 years. These have included a focused effort by the Department of Justice to address espionage and IP theft at U.S. institutes of higher education and American businesses to the U.S. Customs and Border Protection's efforts to seize any imported cotton produced in Xinjiang (Allen-Ebrahimian, 2021).

The Trump Administration ushered a new shift in policy, resources, and mindset in recognizing the threat posed by China as a great power. Indeed, some of that rhetoric and those policies have endured into the Biden Administration, with President Biden doubling down with a commitment to pursue "extreme competition" with China (Associated Press, 2021).

The policy shift represented by the phrase "great power competition" was intended to protect Americans from China's threats and, to borrow the NDS's subtitle, "sharpen the American military's competitive edge." "Competition" was a term that connoted—though, unfortunately, did not precisely define—the need for America to actively protect and invest in technological advancements, military capabilities, diplomatic and military influence, and economic leverage overseas (Providing for the Common Defense, 2018, 27, 64; Goldberg, 2021; Boroff, 2020; Cohen, 2021). Some, including senior members of the Trump and Biden Administrations, were careful to note that "competition" did not connote "conflict" (Friedman, 2019; Mahshie, 2021). Indeed, the fact that the United States not only avoided conflict but, in particular, sought to engage with China in a manner that reaped benefits to the American people is reflected in the fact that former President Trump concluded the first phase of a trade deal with China in early 2020.

January 21, 2020, marked a transition point, with the Centers for Disease Control and Prevention reporting the first known case of COVID-19 in the United States. For the next 11 months—until the Food and Drug Administration granted an Emergency Use Authorization to the first COVID-19 vaccine on December 14, 2020—the United States largely put competition between it and China on pause to focus the federal government operations on protecting Americans from a lethal and highly transmissible pathogen.

With 182.4 million Americans fully vaccinated against COVID-19 as of September 23 due to the innovative approach to vaccine development and distribution supported by Operation

Warp Speed, the United States is now able to emerge out of this transition period to consider what its and the world's, relationship with China should look like going forward (Kellogg, Olidort, Overton, 2021a). And the origin of COVID-19, as well as China's early response and lack of transparency, should help guide this path.

The strong possibility that COVID-19 originated in a laboratory dedicated to experiments with coronaviruses, coupled with China's lack of transparency about the virus, offers an invitation to inquire further about China's intentions and capabilities, particularly considering China's continued denials and pushback in the face of millions of lives lost around the world due to COVID-19. China's actions in other areas—from its violations of human rights to its flouting of international standards to its theft of intellectual property—make a case for accountability more pressing.

Put differently, how should America relate to China in this new "era of great tragedy accountability?"

FRAMING THE PROBLEM, DEFINING TERMS: COMPETITION AND ACCOUNTABILITY

Actualizing and putting into practice the notion of a "great power competition" requires defining the nature of this competition, both in terms of ends and means.

As some have noted, one problem with using "competition" as an overarching term to describe America's economic, military, and diplomatic strategic posture toward China is the term's lack of definitional precision regarding what it means for America—competition how, where, and toward what end (Sobolik, 2021)? While "competition" has a precise meaning in the field of economics, embracing an all-encompassing and ill-defined notion of the term dilutes its meaning as well as risks enabling strategic overreach and providing cover for wasteful spending that is not aligned to specific national interests. The large spending bills that the Biden Administration and Democratic lawmakers are championing as measures to compete with China—such as the over \$3.5 trillion infrastructure bill and the recently-passed \$250 billion S. 1260, "the United States Innovation and Competition Act"—are salient examples (Detrow, Ordoñez, 2021; United States Innovation and Competition Act, 2021). Put differently; some have taken "competition" to mean "imitation" (Wall Street Journal Editorial Board, 2021).

In addition to enabling overreach, adopting the term "competition" vis-à-vis US-China relations may lead to a potential mischaracterization of China's relative influence over other nations (Jackson, 2018; Mazzarr, Wyne, 2020). While the description of China as a "near-peer competitor" may accurately describe China's capabilities and ambitions in different military theaters, the more precise terms "deterrence" and "edge" can more narrowly define the scope and nature of U.S. policy priorities (or, more specifically, military/defense decision-making and support of private sector innovation).

With "competition" being not only an incomplete expression of an overall outlook toward China but also one that appears to justify policies at odds with America's security and economic well-being, what is the best way to define this era in U.S.-China relations particularly considering China's actions vis-à-vis COVID-19?

THE ERA AND THE PRIORITY OF GREAT TRAGEDY ACCOUNTABILITY

Framing U.S.-China policy with direct reference to China's specific acts of wrongdoing illuminates the nature of China's threats and allows U.S. policymaking to draw lessons from previously under-discussed paradigms and tools regarding how the U.S. engaged with other nations in the past. "Accountability," moreover, can serve as a more precise description of the response to China's violations of human rights, international norms, and standards.

Beyond its usefulness for developing U.S. policies, a focus on China's pattern of actions also underscores a consistent aspect of its problematic behavior—China's rewriting of its own history, as some have suggested (Wolfowitz, Drexel, 2021). Much as with the Tiananmen Square Massacre or China's treatment of the Uyghurs, the act of facing and acknowledging the Wuhan lab origin and the consequences of COVID-19 is a necessary exercise in national political reckoning that has characterized the trajectory of many of today's democracies.

The People's Republic of China has posed a threat to Americans in numerous ways under the Chinese Communist Party (CCP). The Chinese government systematically steals American IP and penetrates American academic institutions to use sensitive research for its military and economic capabilities, and even systematically steals American agricultural seeds (United States Senate Permanent Subcommittee on Investigations, 2019; Riley, 2014). China has also undermined America's interests abroad by helping Iran evade sanctions (Northam, 2020). It has coopted multilateral institutions and exploited other nations' debt mainly through its expansive Belt and Road Initiative—to gain control over critical infrastructure and advance its interests. Over recent years, this influence has manifested itself in numerous ways, including buying the solidarity of Muslim-majority nations with China despite public condemnations over its persecution of its Uyghur community (Qiblawi, 2019). Most recently, the Prime Minister of Pakistan, home to one of China's largest Belt and Road Initiative projects, gave an interview where he deflected China's persecution of Uyghurs. In Europe, Greece blocked a United Nation's (U.N.) statement condemning China's human rights record (Emmott, Koutantou, 2017) and, more recently, Ukraine withdrew from a statement signed by 40 nations brought to the U.N. Human Rights Council calling for allowing inspectors to Xinjiang after China threatened to halt a shipment of 500,000 COVID-19 vaccines to Ukraine (Keaten, 2021).

To respond to the threats to Americans and send strong messages for China's violations of human rights (particularly in suppressing pro-democracy protests in Hong Kong), the Trump Administration used a range of policy tools, from sanctioning Chinese officials and state-owned entities to blocking Chinese state-owned companies (most notably, Huawei and Tik Tok), to banning cotton imported from China that was made by Uyghur forced labor in Xinjiang. These policies represented a new era in U.S.-China relations that prioritized protecting the American people against an economically ascendant and militarily aggressive China.

The outbreak of COVID-19—with the millions of lives it claimed around the world, China's continued lack of transparency about the virus, and the possible links to the state-run WIV—marks the end of an era when China was merely chided for its serial global malfeasance and the ushering in of a new era in China's relations with the United States and other nations: that of great tragedy accountability.

There are calls today for the United States to pursue this course, given China's COVID-19 coverup. Congressman Jim Banks of Indiana summarized the need to take concrete action

against China for their disgraceful behavior when he stated, "If China's leaders hadn't become embarrassed by the outbreak and tried to cover up its spread, the world may have had a better chance to prepare for this or even contain it in Wuhan or China...Instead, we have a pandemic. China shoulders most of that blame. Rather than succumb to the propaganda and spin of Chinese officials, the world must hold them accountable for mishandling this outbreak" (Hoonhout, 2020). Former Director of National Intelligence John Ratcliffe called on the International Olympic Committee to not grant China the distinction of hosting the 2022 Olympic Games given its lack of transparency regarding the origins of COVID-19 (Ratcliffe, 2021).

Initiated by the cataclysmic event of COVID-19, this new era is cognizant of China's past and ongoing threats while also recognizing and adjusting to the new reality that China stands alone in modern history as a nation whose actions and inaction have caused widespread loss throughout the entire globe. As such, it is appropriate to begin treating China as a nation that needs to face its record and face accountability for its moral debt. China's leadership should experience this national psychological transition, characterized by a policy shift from merely treating China as a rising and aggressive threat with the potential to harm one that has already wrought extensive damage.

FROM "NEAR-PEER COMPETITOR" TO ACCOUNTABLE NATION

The previous century offers numerous examples of nations being compelled, either by the United States and allies or from within, to face the consequences of their governments' actions. Most notably, following the allies' destruction of the German and Japanese militaries and their governments during World War II, the United States and international partners held both countries accountable for the damage and suffering they created and also compelled those countries to acknowledge their record during World War II. The United States went beyond ad hoc alliances to help launch multilateral institutions to prevent repeats of history and promote security, stability, and peace. While the circumstances surrounding World War II are no doubt quite different than those of COVID-19, the relevant lesson in the analogy is that accountability measures came from outside and created conditions that induced the offending countries to reorient their behavior. Thus, a present-day inquiry into China's contribution to the COVID-19 debacle and other transgressions could bring about much-needed transparency and suggest new policy options to discipline China into behaving like a responsible global power.

A different example, one where accountability came about from inside its borders, was the explosion of the Chernobyl nuclear reactor in April 1986, which set off a series of steps initiated by Soviet leadership that ultimately led to the fall of the Soviet Union. Indeed, Arkansas Senator Tom Cotton made this comparison at a Senate Armed Services Committee hearing on January 30, 2020, when he first warned of the possibility that COVID-19 originated in a laboratory in Wuhan (Senate Armed Services Committee, 2020). No less than former Soviet premier Mikhail Gorbachev, who helped bring about an end to the Cold War, said that the "nuclear meltdown at Chernobyl," even more so than the perestroika he launched, "was perhaps the main cause of the Soviet Union's collapse" because "it was a historic turning point: there was the era before the disaster, and there is the very different era that has followed" (Gorbachev, 2006).

China today does not fit into either mold. It is unlikely that China will change its behavior from the outside through a conventional all-out war. Nor, as history indicates, will China's

leadership follow Gorbachev's example and initiate a process of accountability and reckoning from within. If anything, China feels confident in its feigned innocence, actively denies any connection to the virus, and obstructs U.S.-led investigations into its origins. Indeed, in a speech marking the 100th anniversary of the CCP, Chinese President Xi struck a defiant tone, saying the country "will never allow any foreign force to bully, oppress, or enslave us" (Wong, Zhai, 2021). The irony is that the Chinese government already does that to its own people.

The question, therefore, before the United States is how it, along with other nations, can create the external conditions for imposing accountability on China for COVID-19.

U.S. ENGAGEMENT WITH CHINA: THE ERA OF A POST-COVID CHINA

This newfound era of great tragedy accountability seeks to hold China accountable for its behavior during COVID-19 and to discipline China to recognize that continuing its serial transgressions will bring about costly consequences. However, before the United States can begin to educate and build coalitions with other nations with respect to this new era of great tragedy accountability, the United States must take steps to demonstrate the urgency of assuming a proactive leadership role. To do so, the United States must be unafraid to employ the tools at its disposal to hold China accountable.

All too often the military is traditionally seen as the primary tool—with advocates harkening back to Cold War-era policymaking under the obsolete auspice of great power competition (Ashford, 2021). With the emergence of great tragedy accountability, this is not to suggest that the military is an unnecessary institution in this policy shift, but rather that the military alone is insufficient. It also means that the investments in military capabilities and posture and the restoration of a credible deterrent against China's aggressive military ambitions must be commensurate with the likely military threats to Americans and American interests. This topic requires deep analysis, but it may call for its own complex tradeoffs when considering future threats from China to American citizens, and interests could more likely come in the space, cyber, and biowarfare domains. Meanwhile, analysts have noted that despite official Chinese talk of militarily invading Taiwan, the risks to its credibility and its own security of attempting to do so may outweigh the benefits (Bush, Glaser, Hass, 2021).

As a parallel track, the United States should also pursue a China accountability course, which will require a convergence of American diplomatic, economic, and military capabilities. Furthermore, many of the policies require leadership from Congress and the Executive Branch—and even private sector leaders and the American people. Indeed, with the dawn of the era of great tragedy accountability, it is essential that the House of Representatives and the Senate reclaim their role in foreign policy as they did during the Cold War to ensure that U.S. policy regarding China—no matter the person or party in charge—remains committed to the arduous and focused task of holding China accountable.

As discussed in previous paragraphs, if Congress continues to maintain the wide variety of actions it has taken to express its displeasure with the People's Republic of China—to include targeted sanctions, tough rhetoric, and a powerful military which is capable of credibly sustaining and extending deterrence to America's defense allies and partners—China will remain accountable to the world.

The United States need not look solely to the military in recognition of the era of post-COVID China, as historically it has been used to (over)compensate for deficiencies elsewhere throughout government (Yost, 1980). It is here that Congress can take veto-proof action to hold China accountable and the president and extensive civil service that is charged with enacting the administration's policies. For example, the Department of Defense is widely credited for its leadership when it comes to holding China accountable with its Pacific Deterrence Initiative (PDI), a \$5 billion fund designed to augment U.S. military posture in the Indo-Pacific based on a request from U.S. Indo Pacific Command (Gould, 2021).

However, it is now abundantly clear that how the Biden Administration reflected PDI in its FY22 budget request is inadequate—if not pointless—in its apparent mission set. In fact, while initially supported by lawmakers from both sides of the aisle (Inhofe & Reed, 2020), PDI has come under fire for what Oklahoma Senator James Inhofe and Congressman Mike Rogers of Alabama—ranking members of the Senate and House Armed Services Committees—described as "entirely [missing] the point of the bipartisan, bicameral legislation that established the Pacific Deterrence Initiative...[sending] China and our other potential adversaries a bad signal—that we're not willing to do what it takes to defend ourselves and our allies and partners" (House Armed Services Committee, 2021).

In response, Congress should, as one critic noted, "submerge the Pentagon's PDI request in a punishing bath of red ink" as it drafts defense authorization and appropriations bills—effectively removing, replacing, and reorienting funds for PDI (Walker, 2021). Lawmakers on both sides of the aisle have noted the Navy's retirement of over a dozen ships and drops in Navy and Air Force acquisition and modernization just as China ramps up its naval capabilities (Luria, 2021).

While rewriting the Pentagon's budget proposal may be the first step to hold China accountable, other actions can be taken simultaneously. Chief among them is establishing a version of PDI, or a China Deterrence Initiative (CDI), in other federal agencies, most notably the Departments of Treasury, Commerce, State, Health and Human Services, and Education. Holding China accountable will require a whole-of-government approach and a merging of capabilities across the United States. These CDI's could be run by assistant and undersecretaries charged with modernizing and defending America's industries with the tools necessary while also proactively holding China accountable. For example, a prospective Department of Education CDI could be charged with specifically focusing on the Chinese government's infiltration of American academic institutions of higher education while concurrently reevaluating, in coordination with the Department of Homeland Security and Department of State, how the United States allocates student visas from China. The Department of Health and Human Services (HHS) could evaluate potential devastating medical studies concerning gain of function research and keep a watchful eye—alongside other prospective governmental CDI's—on China's precarious scientific initiatives. HHS could also lead longer-term efforts to ensure we are never again dependent upon China for key medical supplies.

Yet, holding China accountable will take more than the United States simply initiating domestic reforms; bold leadership on the international scale is required. Therefore, in the following section, authors will discuss the potential options that lie ahead.

U.S. GLOBAL ACCOUNTABILITY EFFORTS

Over the last century, and even more recently with the Global War on Terror and the Global Coalition to Defeat ISIS, the United States has stood up global efforts to address geopolitical issues as a response to attacks or threats.

Despite differences in circumstances between China today and Germany after World War II, an international tribunal could effectively bring China's connection to COVID-19 into a more explicit and global context. The likely non-attendance by Chinese officials and their likely propaganda efforts discrediting such tribunals as illegitimate could even have the effect of giving it more credibility and impact by showing their continued unwillingness to cooperate with investigations into the origins of the virus.

The International Court of Justice (ICJ) offers the best avenue to recognize and hold China accountable for its transgressions internationally. Articles 49-51 of the U.N. Charter—the parent organization of the ICJ—holds that if China were to refuse a trial, the United States and the rest of the global community could suspend international obligations to China (Hoonhout, 2020). These international obligations could consist of a range of options from more severe actions such as reversing China's membership in the World Trade Organization (WTO) or even suspending air travel to China. To bring forward such a case, the United States could introduce a claim reflecting the virtue of a jurisdictional clause provision based on a treaty in which both parties are signatories. China has ratified several treaties that contain such provisions such as the Treaty of Friendship, Commerce and Navigation of 1946 (Article XXVIII), the Economic Cooperation Agreement of 1948 (Article X), the Treaty of Amity of 1947 (Article II), the Constitution of the World Health Organization (Article 75) (Julie, Menegon, & Murgier, 2021). This option would arguably be the most reliable way for the United States to ensure China's appearance before the ICJ without China being able legally to object to the ICJ's jurisdiction.

Moreover, the potential for restitution could follow the hearings and verdicts that result from efforts at the ICJ. One outcome of the hearings and verdicts could be an Emergency Relief Fund designed to pay restitution to the world's victims of COVID-19. China would be responsible for the complete financing of this fund, and its terms and mechanisms for distribution would be determined by a U.S.-led alliance of nations impacted by COVID-19. Given China's history of disregarding international law, some may suggest that Beijing will ignore a ruling from the ICJ. Yet, evidence suggests that international legal structures are useful to China (Williams, 2020). China is an active—albeit vexingly so—participant in the U.N., WTO, the International Monetary Fund (IMF) and is a signatory to hundreds of multi and bilateral treaties.

Nevertheless, it would be naïve to overlook the possibility that China would simply ignore pressures and rulings from international institutions. In that case, the United States would need to either work toward adapting these institutions or embark upon a path akin to the one it took last century of creating a new international organization designed for this era of great tragedy accountability—one that can carry out the task of holding China accountable while better advancing the priorities of America and its allies.

This new institution could borrow and combine elements of existing organizations to give it the credibility and capabilities necessary to be a substantial force moving forward. Much like the 83-member nation Global Coalition to Defeat ISIS, which includes military, diplomatic and economic lines of effort, this new organization—a Global Coalition for China

Accountability and Deterrence—would consist of some military partnership, ripe with foreign military financing, exchanges, and joint exercises to help bolster and project deterrence around the globe. Scoped narrowly to address both national security and ethical challenges posed by certain kinds of scientific research, this coalition could also house a deliberative body designed for the life sciences community to reach an agreement in concert with their defense counterparts on protecting national security in new frontiers of scientific research and imposing consequences for those who violate those standards.

Akin to both the IMF and World Bank, this prospective international coalition could enhance economic and financial development around the globe, shielding developing nations from Chinese predatory economic policies—while also promoting burden-sharing amongst partners—in coordination with the private sector. This would form a system resembling a social services model with non-governmental organizations and governments as providers while developing nations would become recipients for a wide range of projects. Although these measures would amount to building an international bureaucracy, they would ensure that it would be free from Chinese intervention and intransigence. Suppose the world's current international institutions cannot acknowledge and act in the era of great tragedy accountability. In that case, it is incumbent upon the United States—as the world's greatest power— and its allies to restructure the current rules-based order and let these increasingly obsolescent organizations naturally decay. In considering options for the structure, scope, and membership of this coalition—and recognizing the pablum policy statements from the North Atlantic Treaty Organizations (NATO)— the Quadrilateral Security Dialogue (also known as the Quad) could serve as a better foundation for a core set of nations aligned in their recognition of the threat China poses and leading the effort to respond. Comprised of the United States, India, Australia, and Japan, the Quad already coordinates on a range of economic and military arrangements to recognize the shared threats emanating from China. With a shared perspective on China, these four nations can build the strategy and liaise with other member nations of the Global Coalition for China Accountability and Deterrence. Although, as mentioned previously, the threat from China is global, empowering a more regionally based multinational framework rather than defaulting to NATO could have the ancillary benefit of setting a precedent for other regionally based multinational frameworks, like the Abraham Accords, to define and address the challenges emanating from their regions.

There is little doubt that the options described above would catalyze substantial reactions across the world and would include a significant bureaucratic infrastructure. However, only change of this scale can ensure that other nations act in lockstep with the United States in pursuing measures to hold China accountable for a global tragedy. As described, holding China accountable through existing institutions should be the first course of action, particularly as those institutions provide mechanisms for doing so. Yet, if that path is pursued and results in little-to-no change nor adequately holds China accountable, the other options described could prove necessary.

WAY FORWARD

The era of great tragedy accountability represents a new chapter in China's relations with the United States and the world. Though China's circumstances today differ from those of other nations during the last century, the United States has the responsibility to take action on behalf of Americans who lost their lives due to COVID-19, which emanated from China, and no longer let China get away with flouting the rules-based international order that the

United States helped build and that has delivered untold global prosperity and security. Indeed, a recent poll shows that almost two-thirds of Americans believe China should pay restitution for COVID-19, whether it leaked from a laboratory deliberately or accidentally (Waller, 2021). Given the damage COVID-19 has caused worldwide, there may also be an opportunity to reframe U.S.-led global efforts and build greater international consensus around China policy by reframing U.S. relations with China in terms of great tragedy accountability in the narrow sense of restitution for COVID-19. However, it also provides an opportunity to set the U.S. and global policy on China on a new course, one of accountability for China's violations of human rights and international norms. Achieving this objective, and imposing clear costs on China for continuing to act in such a manner (which they have thus far largely been able to get away with given the lack of international accountability), may require a new set of options, tools, and perhaps even institutions. Namely, as the United States continues to build on the measures initiated under the Trump Administration to protect Americans from the threats coming from China, and as it continues to deter China's threats to America's interests abroad, the United States can now begin leading a global effort to redefine China's position in the world based on its connection to a pandemic that has caused suffering and loss. Indeed, this new global effort not only places Americans first but also can help bring other nations around to an understanding of China that brings tangible results to Americans as it can to their citizens.

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