

What's Been Happening

1 — Biden Admin Looking to Pursue Indo-Pacific Digital Agreement — 1

[In One Sentence]

- The Biden administration is looking at ways to develop a worker-centric digital trade agreement in the Indo-Pacific.
- Both the Digital Economic Partnership Agreement (DEPA) and the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) have been suggested as possible reference points for this potential digital trade agreement.
- Nevertheless, the proposal for an Indo-Pacific digital trade deal could face questions and disagreements within Washington.
- The suggestion has also received mixed responses from allies and partners in the Indo-Pacific region.

[Mark the Essentials]

- Analysts, such as CSIS's Matthew Goodman, have suggested that a viable first step can be an informal digital trade deal similar to DEPA, which features non-binding provisions on principles and best practices.
- Japan's former chief TPP negotiator Koji Tsuruoka has said that the U.S. should join CPTPP first before attempting to reform its environmental, labor and digital trade provisions.
- Meanwhile, Australia's Trade Minister Dan Tehan has suggested that a digital trade agreement in the Asia-Pacific can be an important first step towards U.S. membership in the CPTPP.
- National security and trade officials have reportedly disagreed over the digital deal proposal, and it is unclear whether and how Congress would authorize such a negotiation, or whether such authorization would even be needed.

[Keeping an Eye on...]

- A full-fledged rejoining of the CPTPP will require Washington to compromise with its allies and partners who were deeply discontented with the previous administration's unilateral actions, which they viewed as having undermined the multilateral trade system. At this time, for the Biden administration, it is not worth the expenditure in political capital to undo the previous administration's trade policy damage, especially at a time when other foreign policy issues, such as the Taliban's sudden takeover in Afghanistan, as well as other technology control issues are more pressing. A digital trade deal, which captures the most advanced yet least regulated - and hence less controversial - aspect of multilateral trade liberalization could be a convenient way for the U.S. to emphasize its return to trade multilateralism-related rules-shaping. However, such an

approach has its own limitations too. Regardless, this state of affairs is not tenable in the medium term. China's growing interest in CPTPP and its expanding influence in the digital commerce and digital rulemaking arena requires that the administration get its act together and adopt a more proactive stance on the issue.

[Expanded Reading]

- [Aust presses US for regional digital trade pact](#), *InnovationAus*, August 4
- [Joe Biden's digital trade deal could see US rejoin Asia-Pacific pact ditched by Donald Trump](#), *South China Morning Post*, July 23 [Paywall]
- [Asia Digital Deal Raises Hope U.S. to Rejoin TPP Successor](#), *Bloomberg*, July 22 [Paywall]
- [Readout of Ambassador Katherine Tai's Meeting with Australian Minister for Trade, Tourism and Investment Dan Tehan](#), United States Trade Representative, July 21
- [The Future of U.S.-Japan Trade Relations](#), event by NYU U.S.-Asia Law Institute, July 21
- [U.S.-Asia Digital Pact Held Up by Squabble Among Biden Officials](#), *Wall Street Journal*, July 20 [Paywall]
- [Biden Faces Hard Sell in Asia for Anti-China Digital Trade Pact](#), *Bloomberg*, July 15 [Paywall]
- [Biden Team Weighs Digital Trade Deal to Counter China in Asia](#), *Bloomberg*, July 12 [Paywall]

2 — China Tariffs: A Bleeding Wound sans Proper Stitches — 2

[In One Sentence]

- The U.S. Court of International Trade (CIT) again extended the temporary halt to the liquidation of Section 301 tariffs imposed on imports from China.
- Non-importers who did not directly pay the Section 301 tariffs are seeking compensation for losses caused by the tariffs on Chinese goods, and therefore have joined the legal challenge in the U.S. CIT too.
- Earlier in August, several U.S. solar panel manufacturers petitioned the U.S. International Trade Commission (USITC) to extend the Trump-era Section 201 tariffs on solar products.
- Separately, the White House has said it has no timeline for the conclusion of its China Policy Review, which includes a review of tariffs and the Phase One trade agreement.

[Mark the Essentials]

- The CIT extended the Section 301 liquidation halt to August 20, thereby allowing the importers and the Biden administration more time to negotiate and agree on a way to process requests to halt relevant tariff liquidation.
- Some major trade organizations, including the American Apparel and Footwear Association, the National Retail Federation and the Consumer Technology Association, have said that the Section 301 tariffs continue to harm the U.S. economy and producers and parties down the supply chain.
- Similarly, U.S. China Business Council (USCBC) President Craig Allen has noted that the Section 301 tariffs which were imposed by the Trump administration and still remain in place, have had an especially negative impact on small and medium-sized manufacturing companies in the U.S.
- Although the White House says it has no timeline for completion of its ongoing comprehensive review of U.S.-China trade policy, American business groups have urged U.S. Trade Representative Katherine Tai and Treasury Secretary Janet Yellen to restart trade talks with China.

[Keeping an Eye on...]

- After Treasury Secretary Janet Yellen stated last month that the Trump administration's tariffs on imports from China had hurt American consumers, calls to remove or pare down these tariffs have been further reinforced. However, it is by no means clear that China trade and tariff policy could - or even should - revert to their pre-Trump status. At this time, there is awareness within the administration that it needs to get its act together on China trade and tariff policy. Businesses in particular have been vocal in this regard, looking to extend out the market purchases component of the Phase One trade agreement as well as introduce the structural as well as digital commerce issues within the negotiating framework of U.S.-China economic and trade relations. It does not seem that the Biden administration has reached a broad internal consensus on these topics however. Besides, the current tension in the bilateral relationship does not provide a facilitative atmosphere for such negotiations to take place. Until the two parties can return to the negotiation table, little can be done however to fully address the tariffs issues. It would be useful for the Biden team to be ready with a plan in the interim though.

[Expanded Reading]

- [‘Predicted Harms Ensued’ From Section 301 Tariffs, Trade Groups Say in Amicus Brief](#), *International Trade Today*, August 10 [Paywall]
- [Trump’s China Tariffs Are Still in Place, But Industry Groups Unite to Challenge Them](#), *Footwear News*, August 10
- [Business Groups File Amicus Brief Calling USTR Tariffs Process ‘Flawed’](#), American Apparel & Footwear Association, August 9
- [Q CELLS, LG, Mission Solar join petition to extend solar panel tariffs](#), *Solar Power World*, August 5
- [Two U.S. Companies Seek Continued Tariffs on Imported Solar Panels](#), *Wall Street Journal*, August 1 [Paywall]
- [CIT Again Adjusts Deadlines in Section 301 Tariff Refund Litigation](#), *SmarTrade*, August 3
- [CIT Adjusts Deadlines in Section 301 Tariff Refund Litigation](#), *SmarTrade*, July 22

3 — Export Controls and National Security: Does it Make for a Seamless Equation? — 3

[In One Sentence]

- U.S.-China Business Council (USCBC) President Craig Allen noted that fears of potential export controls is dissuading Chinese companies from working with American suppliers.
- Earlier, in late-July, the Information Technology Industry Council (ITI) had called on the recently launched U.S.-EU Trade and Technology Council (TTC) to develop multilateral export controls between the U.S. and the European Union.
- The White House is currently reviewing U.S. policy on export controls and investment screenings.
- Several American lawmakers have called on the U.S. Department of Commerce to add NSO Group, an Israeli technology company, to the Entity List.
- President Biden nominated Christopher Wilson to be the first Chief Intellectual Property (IP) Negotiator within the Office of the U.S. Trade Representative.

[Mark the Essentials]

- According to Craig Allen, Chinese companies are concerned that they might be dragged into the Entity List and are hence reducing their purchases of American technology-intensive products and services or are leery of transacting with American suppliers.
- Bureau of Industry and Security (BIS) Senior Adviser Sahar Hafeez supported the Information Technology Industry Council's (ITI) view that multilateral export control cooperation is needed to address supply chain risks in the semiconductor industry.
- National Security Advisor Jake Sullivan has recently been on the record saying that the Biden administration's initiative on export controls and investment screening will "pick up [its] pace in the months ahead," and he noted too that outbound U.S. investment flows had the potential to undermine export controls, and hence needed to be brought within the ambit.
- On July 27, four Democrats in the U.S. House of Representatives declared that NSO Group, an Israeli technology company that sells softwares enabling remote smartphone surveillance, should be added to the Entity List.
- Senate Finance Committee ranking member Mike Crapo and committee member Chuck Grassley welcomed the Biden administration's nomination of Christopher Wilson, given their previous calls for the USTR Chief IP Negotiator position to be filled - a position that had remained vacant since its creation in 2015.

[Keeping an Eye on...]

- American business groups have long called for a more circumspect as well as more granular approach to export controls, given that the heavy-handed imposition of such controls could incentivize the move of production overseas or lead to the 'designing out' of some U.S. technologies from global supply chains. On the other hand, the Biden administration continues to follow its predecessor's trajectory, viewing export controls as a key tool to address national security concerns as well as to protect America's pole position in numerous core technologies from the emerging China challenge. Plurilateral technology cartels with European and select Asian allies is also seen as an essential component of protecting America's technology leadership. That said, it is useful to bear in mind that not all Entity List controls are directed at only China (and a handful of other adversaries). The calls for adding NSO Group, an Israeli technology company, to the Entity List is testament to this point. Furthermore, Biden's selection of Christopher Wilson as the first ever USTR IP negotiator is a signal that the administration sees the protection of IP as a vital and cross-cutting national interest.

[Expanded Reading]

- [Biden Taps Wilson as U.S. Trade Representative's IP Negotiator](#), *Bloomberg Law*, August 10
- [President Biden Announces Ten Key Nominations](#), The White House, August 10
- [Press Briefing by Press Secretary Jen Psaki, August 6, 2021](#), The White House, August 6
- [Business Groups Call on Biden to Restart Trade Talks With China](#), *Wall Street Journal*, August 6 [Paywall]
- [USCBC 2021 Member Survey Press Launch](#), event by the U.S.-China Business Council, August 6
- [U.S. Companies Urge Biden to Restart China Talks, End Duties](#), *Bloomberg*, August 6 [Paywall]
- [Industry letter on the next steps after Phase One](#), August 5
- [Companies Like NSO Group Should Be Shut Down or Sanctioned: US Lawmakers](#), *The Wire*, August 1
- [USA: ITI publishes set of priorities ahead of the EU-US Trade and Technology Council launch](#), Data Guidance, July 29

- [BIS Adviser Stresses Importance of Multilateral Export Controls for Semiconductors](#), *Export Compliance Daily*, July 28
- [Remarks by National Security Advisor Jake Sullivan at the National Security Commission on Artificial Intelligence Global Emerging Technology Summit](#), The White House, July 13

On the Hill

1 — Limited Fondness for CHIPS Act — 1

[In One Sentence]

- The U.S. Senate passed a budget resolution that will help fund high-technology investment and establish a new National Science Foundation (NSF) research and technology directorate.
- The U.S. House Science, Space and Technology Committee approved five bills aimed at crafting a national science and technology strategy, reauthorizing the National Institute of Standards and Technology, and developing regional technologies.
- Nevertheless, the House is divided on certain trade provisions of the Senate's China-focused bill, thereby complicating efforts to fund the CHIPS Act.
- On August 10, the U.S. Senate passed a \$1 trillion bipartisan infrastructure bill by way of a 69-30 vote.

[Mark the Essentials]

- The Senate's August 11 budget resolution instructs the Commerce Committee to spend \$83 billion on investments in technology, research, manufacturing, coastal resiliency and a NSF directorate.
- The five U.S. House Science Committee bills are said to complement the U.S. Innovation and Competitiveness Act as additional measures that will secure U.S. leadership in science and technology.
- While U.S. Secretary of Commerce Gina Raimondo and numerous significant semiconductor-related companies have urged Congress to provide funding for the CHIPS Act, industry sources worry that the House's divide over trade provisions in the China-focused package could introduce complications in securing congressional funding for the CHIPS Act.
- A bipartisan effort, the infrastructure bill authorizes \$1 trillion to incentivize, among other things, the domestic production and reshoring of certain strategic goods, such as personal protective equipment (PPE). Lawmakers were concerned that the U.S. had few options other than procuring PPE from China and other countries during the height of the COVID-19 pandemic, and they would like the country's medical supply chain to be far less exposed during a future contingency.

[Keeping an Eye on...]

- Placing the U.S. in a 'position of strength' in its competition with China appears to have garnered a bipartisan consensus on Capitol Hill, with multiple bills introduced and passed aimed at further strengthening the U.S. science and technology development ecosystem. However, there are also divisions brewing on how such strengthening of the S&T ecosystem should proceed. There are fears that in the course of zealously competing with China, the interventionist approach to 'picking winners' might come to dominate, which could have harmful long-term implications for the development of market-based practices. Furthermore, there are concerns that government funding would merely subsidize what would have otherwise been market-funded pathways to technology incubation and development by deep-pocketed private players. It is worth keeping an

eye, going forward, on who the advocates for funding of the CHIPS Act are, and their arguments in favor for a more hands-on government approach to industrial policy.

[Expanded Reading]

- [Senate passes infrastructure bill and budget framework — here's what happens next](#), CNBC, August 11
- [Big win for \\$1T infrastructure bill: Dems, GOP come together](#), AP News, August 10
- [Senate Democrats release \\$3.5 trillion budget resolution](#), Axios, August 9
- [SIAC Letter to Congressional Leaders on CHIPS funding](#), Semiconductors in America Coalition, July 28
- [U.S. Commerce chief urges Congress to act on chip funding by August](#), Reuters, June 28 [Paywall]
- [US Needs Five House Bills Complementing the US Innovation and Competitiveness Act to Maintain Its Leadership in Science and Technology](#), ITIF, July 27
- [Biden Team Plans for Chips Funding Even Before Congress Acts](#), Bloomberg, July 22 [Paywall]

2 — Reforming the Shipping Act: From Supply to Chain — 2

[In One Sentence]

- Several House lawmakers proposed a comprehensive reform of the Shipping Act, citing unpredictable and unreasonable practices by foreign carriers and their effect on exporters and agricultural producers.
- Earlier in June and July, the American Apparel and Footwear Association (AAFA) sent two open letters to the Biden administration urging tariff relief to help importers deal with the current shipping crisis -- where there has been a rapid increase in shipping costs due in part to the pandemic.

[Mark the Essentials]

- Amidst reports that ocean carriers have refused to transport U.S. agricultural exports, the proposed reform in the Shipping Act aims to address what American lawmakers say are unfair practices by foreign ocean carriers.
- The lawmakers have proposed to authorize and require the Federal Maritime Commission (FMC) to reinforce its current regulatory power to include additional actions such as enforcing certain “minimum requirements” on service contracts and analyzing and reporting anti-competitive or nonreciprocal trade practices.
- Under President Biden’s Executive Order on “Promoting Competition in the American Economy”, the FMC has been instructed to propose further rulemaking to ensure and enforce reasonable and pro-competitive shipping practices
- Numerous national agricultural associations and importer groups, including the American Apparel and Footwear Association, support this reform proposal. The AAFA in particular has urged the Biden administration to address the ongoing shipping crisis, provide immediate support, and remove tariffs on imports from China.

[Keeping an Eye on...]

- The call for reforming the Shipping Act, with a focus on U.S. agricultural and textile exports, has significant implications for U.S.-China relations as well as global and regional supply chains. The current reform proposals by lawmakers would empower U.S. government agencies to more appropriately regulate global shipping practices. Considering that China’s shipping and ports sector plays an increasingly significant role in global shipping and maritime connectivity, the proposed reforms impinge on China’s interests too. The two countries are significant exporters and importers; as such, both would be well served by sitting down together

and updating global shipping rules - an area of rulemaking that has hitherto escaped the attention it deserves - cooperatively.

[Expanded Reading]

- [USDEC, NMPF commend introduction of Ocean Shipping Reform Act](#), *Dairy Foods*, August 11
- [Lawmakers propose updates to Shipping Act, drawing shippers' praise and carrier rebukes](#), *Supply Chain Dive*, August 11
- [Ocean carriers: Shipping reform act 'doomed to fail.'](#) *American Shipper*, August 10
- [AAFA Says FMC Rulemaking, Infrastructure Not Fast Enough to Deal With Shipping Crisis](#), *International Trade Today*, July 16 [Paywall]
- [AAFA Says More Support is Needed to End Shipping Crisis, as Inflation Impacts Shoppers](#), American Apparel and Footwear Association, July 15