

What's Been Happening

1 — The Pathway to Restoration of American Trade Leadership — 1

[In One Sentence]

- The U.S. and the European Union (EU) have invited stakeholders to provide input on four Trade and Technology Council (TTC) working groups.
- Senior U.S. officials said the Asia-Pacific Economic Cooperation (APEC) is an ideal forum to advance the Biden administration's trade agenda in the region and address global challenges.
- The G7 Trade Ministers reached an agreement on principles related to digital trade.
- Multiple sources say the White House is seriously considering an Indo-Pacific digital trade agreement.
- U.S. Trade Representative (USTR) Katherine Tai said her office is "asking big and consequential questions" that will guide its approach on digital trade.
- USTR Katherine Tai said the U.S. will work with allies, deploy all current tools, and consider developing new tools to address "global overcapacity from China" in the steel and aluminum sector.
- USTR Katherine Tai plans to travel to Japan, South Korea and India to discuss the "enduring U.S. commitment to the Indo-Pacific region."

[Mark the Essentials]

- European Commission Executive Vice President Margrethe Vestager lauded progress made at the TTC and said it could become "a main channel of dialogue" between the U.S. and the EU.
- U.S. officials hope to utilize the APEC forum to promote free, fair, and open trade and investment.
- A White House advisor said that multilateral coalitions featuring like-minded countries on emerging technologies should have an open-door policy—especially with regard to non-leaders.
- Sources say the White House has increased contact with domestic stakeholders and is conducting interagency evaluation regarding the specifics of a digital trade agreement.
- USTR Tai emphasized the need to adopt "flexible" digital trade policies and asked how the U.S. can work with allies to "protect democracies against external threats." She also highlighted concerns on physical infrastructure, cybersecurity, and reliable semiconductor supplies.
- USTR Tai cited an earlier U.S.-EU agreement wherein the two parties committed to address "shared challenges in the steel and aluminium sector."

[Keeping an Eye on...]

- Following the initial progress made at the inaugural U.S.-EU Trade and Technology Council (TTC) meeting, the Biden administration is now turning its attention towards the Asia-Pacific. President Biden's upcoming speech to Friday's virtual APEC CEO Summit will be an important indicator of the administration's regional trade approach and priorities, just as ex-President Trump's speech was in 2017. The obvious low-hanging fruit is the announcement of the United States' participation within a regional digital trade framework, building on the existing seven-member Digital Economy Partnership Agreement (DEPA). Digital trade agreements (DTAs) sound attractive and, in the administration's case, give the impression that it is "doing something" on the regional trade policy front. However, the mundane reality is that DTA's are replete with 'best endeavour' clauses, given that domestic rulemaking—let alone international rulemaking—in the digital sphere, be it on antitrust, data flow and data protection, platform regulation, or privacy, is young and fluid. Hard international rules are difficult to pin down in these circumstances. Arguably, China's data governance regime is superior, too, to the United States' own, and Beijing's participation in the WTO e-commerce negotiations and recent application to DEPA further suggests that there is little advantage to be had for the Biden administration in this regard. If it really wishes to press its advantage on trade and investment policy vis-a-vis Beijing, it would do well to borrow a page from its recent European engagement and resolve outstanding irritants with regional trade partners and, thereafter, co-opt them in enforcing the rules of the game on 'level playing field' issues such as industrial subsidies and state-owned enterprises. For this to be the case though, Washington will have to engage with, not run away from, rejoining the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) agreement.

[Expanded Reading]

- [Remarks of Ambassador Katherine Tai on Digital Trade at the Georgetown University Law Center Virtual Conference](#), Office of the United States Trade Representative, November 3
- [Opening Remarks of Ambassador Katherine Tai at American Iron And Steel Institute and Steel Manufacturers Association General Meeting](#), Office of the United States Trade Representative, November 2
- [Joint US-EU Statement on Trade in Steel and Aluminum](#), White House, October 31
- [U.S. trade chief Katherine Tai to make first visit to Japan in mid-November](#), *Japan Times*, October 30
- [Ambassador Tai to Travel to Japan, South Korea, and India](#), *Office of the United States Trade Representative*, Office of the United States Trade Representative, October 29
- [G7 Trade Ministers' Digital Trade Principles](#), Gov.UK, October 22

2 — The Quest for ICT Resilience — 2

[In One Sentence]

- The National Institute of Standards and Technology (NIST) is seeking public comment on China's policies and influence on the development of international standards for emerging technologies.
- The Biden administration has sought recommendations to strengthen the resilience of the information and communications technology (ICT) supply chain.
- Stakeholders have welcomed government input in standards-setting processes and advised against a full onshoring of the ICT supply chain or mandating the provision of sensitive proprietary data.

-
- The Bureau of Information and Security (BIS) has approved most export license applications related to Huawei and Semiconductor Manufacturing International Company (SMIC).

[Mark the Essentials]

- NIST is seeking information on and insights into China's aims at international standard setting organizations, the "China Standards 2035" plan, as well as whether China is leveraging technology-specific standards to its advantage.
- According to industry representatives, recent U.S. policies are unlikely to produce an ICT supply chain that is solely based in the U.S.; as such, the U.S. should take a balanced view of the contributions of overseas-based companies within this supply chain.
- Industry representatives maintain that the U.S. government should not require sensitive proprietary data in the name of national security but have noted that information sharing on a more targeted level is possible.
- House Foreign Affairs Committee Republicans released aggregate licensing data, originally provided by BIS, which showed the scale of approved export license approvals to sanctioned Chinese entities. BIS clarified that the data did not by itself reflect the effectiveness of relevant export controls.

[Keeping an Eye on...]

- The U.S. is upping the pace of its geo-technology rivalry with China in the information and communications (ICT) sector. This has been a consistent theme since the Biden administration's first day in office. While supply chain resilience has been the immediate and overriding priority, in terms of recent developments the administration has expanded its focus from the manufacturing and circulation of ICT goods to standards-setting and rule-making in this field. This has been wholly welcomed by private players, given that they were hamstrung from participating in important international standards setting venues during the latter years of the Trump administration when they were subject to the administration's overly broad and crudely-written decoupling-related orders and regulations. On the other hand, the Biden administration and the private sector hold key conceptual differences on supply chain reshoring as well as informational requirements. The administration's goal is excessively ambitious and unattainable, and its approaches are too intrusively designed to provide comfort to the private sector. Its export license approvals of non-cutting edge items destined for Entity List subjects (Huawei and SMIC) shows, though, that the administration is not unaware of the market's functioning and the relative dependence of the U.S. chip sector on Chinese demand.

[Expanded Reading]

- [Study on People's Republic of China \(PRC\) Policies and Influence in the Development of International Standards for Emerging Technologies](#), Federal Register, November 4
- [Virtual Forum for Risks in the Information Communication Technology Supply Chain](#), Department of Commerce, October 29
- [U.S. Issued \\$100 Billion in Export Licenses to Suppliers of Huawei, SMIC](#), *Wall Street Journal*, October 21

[Legislative Development]

- Just before midnight on November 5, the House of Representatives passed the \$1.2 trillion Bipartisan Infrastructure Framework, a key part of President Biden's *Build Back Better* agenda.
- The Senate Finance Committee advanced the nomination of Chris Magnus, Biden's pick for Commission of Customs and Border Protection, to the Senate floor.
- House Foreign Affairs Committee member Rep. Ami Bera said that Congress might need to take the lead on an Indo-Pacific digital trade agreement.

[Hearings and Statements]

- At the urging of Senator Warren, USTR's Chief Intellectual Property Negotiator nominee and WTO Ambassador nominee committed to prioritizing the proposed waiver of COVID-19 vaccines-related intellectual property (IP) rights at the WTO while several Republican Senators opposed the proposed waiver.
- Senator Carper and Senator Young asked U.S. Trade Representative (USTR) Tai to address China's volume-based medical device procurement system "in diplomatic outreach to China," arguing that China's policy harms U.S. medical device manufacturers.
- Eleven Senators urged USTR Tai to end exemptions and impose full 301 tariffs on personal protective equipment and other medical goods from China.

[Keeping an Eye on...]

- The passage of the bipartisan infrastructure bill through both chambers of Congress, which supports investments in high-speed internet, electric vehicle charging stations, infrastructure repair and renewal, and clean energy, among other related products, constitutes a major political victory for President Biden. It also provides an important competitiveness-related boost to the U.S. economy in the 21st century race to capture the commanding heights of the new economy. However, nowhere to be found within the bipartisan infrastructure bill is money to fund the various CHIPS Act programs—a testament to the divided nature of political and policy priorities on the Hill even on an animating issue (reshoring semiconductor fabrication) where a broad consensus exists. Nevertheless, China remains a focus of Hill concern on issues ranging from rules-setting in the Indo-Pacific to market access to enforcement of provisions against forced labor.

[Expanded Reading]

- [Finance Committee Reports Chris Magnus Nomination for Commission of Customs and Border Protection to Senate Floor](#), U.S. Senate Committee on Finance, November 3
- [Opening Statements of María L. Pagán and Christopher Wilson Before The Senate Finance Committee As Prepared For Delivery](#), Office of the United States Trade Representative, October 26
- [Hearing to Consider the Nominations of Maria L. Pagan, Joshua Frost, Samuel R. Bagenstos, and Christopher S. Wilson](#), U.S. Senate Committee on Finance, October 26
- [Young, Carper Letter Seeks to Protect Medical Device Jobs and Hold China Accountable](#), U.S. Senator for Indiana Todd Young Press Release, October 26
- [Brown, Baldwin Lead Colleagues in Urging USTR to Support American PPE Production by Ending Tariff Exclusions for PPE from China](#), U.S. Senator for Ohio Sherrod Brown Press Release, October 21