

## What's Been Happening

### 1 — U.S. and EU Shrug Off Old Dust to Join Forces Against China — 1

#### [In One Sentence]

- USTR Katherine Tai sees trade dispute resolution with the European Union (EU) as a good foundation for a transatlantic partnership to address systemic global trade and investment issues involving China.
- Commerce Secretary Gina Raimondo expects the U.S. and the EU to reach an enhanced arrangement on Privacy Shield, a transatlantic data protection compliance mechanism, in the near future.
- A USTR official says the U.S.-EU Trade and Technology Council (TTC) can help foster compatible trans-Atlantic regulations for new technologies without impeding trade.
- A senior EU official raised concern about electric vehicle (EV) tax credits in the Build Back Better bill, citing discrimination against the EU.

#### [Mark the Essentials]

- Ambassador Tai has lauded the U.S.-EU trade and tariff *détente* over steel, aluminum, aerospace and digital services, which allows both sides of the Atlantic to manage their differences and thereafter address “non-market and non-democratic” global challenges such as China, as the “significant accomplishment” of the year.
- Despite Secretary Raimondo’s emphasis of the Privacy Shield as the administration’s top priority, former USTR officials and data industry experts caution that the negotiation may still remain too complicated to produce meaningful deliverables in the near future.
- C.J. Mahoney, Deputy U.S. Trade Representative under the Trump administration, said that meaningful deliverables from the TTC are unlikely without a deal regarding a successor to the Privacy Shield mechanism.
- Valdis Dombrovskis, European Commission Executive Vice President and Trade Commissioner, said the EV tax credits in the House-approved Build Back Better plan, which requires eligible EVs be assembled in a unionized plant in the U.S. discriminates against European companies and violates commitments made by the U.S. at the World Trade Organization (WTO).

#### [Keeping an Eye On...]

- In stark contrast to the Trump administration years, the U.S. and the European Union made laudable progress in 2021 towards resolving many of their long-standing trade irritants. These include the long-running Boeing-Airbus WTO dispute as well as the Section 232 tariffs on steel and aluminum imposed by the Trump administration. The Trade and Technology Council (TTC) in particular was proven effective in

restoring and enhancing communication as well as in initiating and coordinating a number of transatlantic workstreams on critical trade, investment, industrial subsidies and digital policymaking issue areas. Thus far, these achievements align with the Biden administration's overarching goal to rebuild trust and strengthen partnerships with like-minded European allies and jointly tackle a number of challenging market distortion issues involving China. That said, 2022 is likely to throw up as many challenges as convergences for Washington and Brussels as they grapple with their long-standing differences on data privacy, 'digital sovereignty' and regulation of emerging technologies. As Commission VP Dombrovskis' recent shot across the bow attests, old-school trade protectionism challenges practised by the Biden administration in the name of its 'worker-centered' trade policy—in reality, a political play to score points with Rust Belt workers—will also not be far from the surface.

### [Expanded Reading]

- [Remarks of Ambassador Katherine Tai at Chamber of Commerce's Transatlantic Business Works Summit](#), Office of the United States Trade Representative, December 8, 2021
- [Transatlantic Business Works Summit Day 1](#), U.S. Department of Commerce, December 8, 2021
- [EU Warns U.S. Electric-Vehicle Subsidies May Inflate Tensions](#), *Bloomberg*, December 6, 2021 [Paywall]
- [Aspen Berlin Conference on Artificial Intelligence](#), The Aspen Institute Germany, December 3, 2021

## 2 — U.S.-China Trade and Tech in 2022: A Must Watch or Just Old Wine?— 2

### [In One Sentence]

- The 2022 National Defense Authorization Act (NDAA), passed by Congress earlier this week, directs the administration to present a "grand strategy with respect to China" that details its plans to counter China's global military, economics, and political influence.
- The White House has authorized USTR to utilize a wide range of trade policy tools to tackle forced labor concerns, such as those over forced labor in the Xinjiang province of China.
- A broad range of American and global technology groups have raised concerns with the proposed data transfer security measures proposed by Chinese authorities.
- The U.S. Department of Agriculture's fiscal year 2022 forecast for U.S. agricultural goods exported to China is less than the previous year, but still remains a record high.

### [Mark the Essentials]

- The 2022 NDAA bill authorizes the president to establish the "Advisory Board on United States Grand Strategy with respect to China"—which will be specifically charged with reviewing and analyzing the U.S. national security strategy toward China—but does not include an amendment that proposes the creation of an outbound investment review mechanism for investments headed to foreign adversaries (China, among others) which could have national security implications.
- The White House published the National Action Plan to Combat Human Trafficking, which outlines a "whole-of-government" approach to build capacity to prohibit goods produced with forced labor from entering U.S. markets and stop those seeking to criminally benefit from forced labor overseas.
- The newest U.S. Department of Agriculture forecast notes that, while China will remain the United States' top market for agricultural exports in FY2022, China has fulfilled only 82% of its commitments under the U.S.-China Phase One trade deal—a deal which is set to expire at the end of December.

### [Keeping an Eye On...]

- Unlike U.S.-EU engagement in 2021, the U.S.-China trade and tech engagement in 2021 has produced few tangible results. Truth be told, there have been very few engagements in the first place itself, with USTR Katherine Tai taking almost 9 months to frame a basic China trade policy. The mechanism of dialogue between American and Chinese trade interlocutors in 2022 itself remains a matter of conjecture—let alone whether the Phase One market purchase commitments that terminate on December 31st will be extended into 2022 and 2023. The stated reason for USTR’s reticence to engage her Chinese counterpart is that she would prefer to create a coalition of like-minded partners first before she stares him down. The much-touted, proposed Indo-Pacific Economic Framework is an integral part of this coalition-building process. The unstated reason for the USTR’s reticence is that she will be confronted on the Trump-era Section 301 tariffs by her Chinese counterpart, and she will have little to answer or offer in this regard—at least prior to the 2022 midterm elections. U.S.-China trade and tech engagement during the first half of 2022 is likely to remain just as unproductive as the last half of 2021.

### [Expanded Reading]

- [Congress OKs \\$770B defense spending bill. Here's what's in it, and what's not](#), *USA Today*, December 15
- [FACT SHEET: The National Action Plan to Combat Human Trafficking](#), The White House, December 3
- [USDA cuts U.S. ag export forecast amid weaker soybean demand](#), *Reuters*, November 23 [Paywall]

## On the Hill



### [Legislative Developments]

- The Senate has passed the 2022 National Defense Authorization Act (NDAA), officially sending the bill to President Biden for signature.
- House lawmakers introduced a companion to the Portman-Brown AD/CVD bill to combat China’s Belt and Road Initiative (BRI).
- House Republicans have introduced a “U.S. Trade Leadership in the Indo-Pacific and China Act,” which they contend would serve as a “blueprint” for Congress and the administration to advance U.S. trade leadership in the Indo-Pacific.

### [Hearings and Statements]

- House lawmakers Ro Khanna and Mike Gallagher have called for setting guardrails for CHIPS Act funding, so that the allocated funding does not turn into a slush fund for the semiconductor industry or have spillover effects, directly or via third parties, that boosts the competitiveness of Chinese companies.
- During its December 2 hearing on American microelectronic leadership, House lawmakers conveyed that they are still assessing how CHIPS Act funds should be deployed.
- House trade panel members have urged the U.S. to impose new restrictions on goods from China’s Xinjiang province and ensure Chinese forced labor practices in fisheries are addressed at the WTO or beyond.

- Sen. Marco Rubio has opposed Reta Jo Lewis, Biden's pick to lead the Export-Import Bank, alleging concerns over the nominee's ties with China's United Front Work Department.

### **[Keeping an Eye On...]**

- With the passage of the bipartisan \$1.2 trillion Infrastructure Investment and Jobs Act, the 2022 National Defense Authorization Act, and the Uyghur Forced Labor Prevention Act, and with the United States Innovation and Competition Act set for conferencing, a first legislative stab at strategic competition with China during the Biden administration has concluded. Much regarding China remains to be deliberated upon and legislated in 2022 and beyond, nevertheless. Of foremost priority is tying together the rules that would form the basis for disbursement of CHIPS Act funding. The CHIPS Act authorizes the creation of a National Semiconductor Technology Center, which inevitably will have to work closely with the Energy Department's National Laboratories. Their framework of engagement needs to be explicated. Just as important is the need for a legislatively-created mechanism for outbound investment reviews, following-on on the lines of the reform of the inbound investment review mechanism in 2018 by way of the Foreign Investment Risk Review Modernization Act (FIRRMA). Given the deep bipartisan sentiment against China on the Hill, lawmakers would be well-advised to 'make haste slowly' on these anti-China bills. Time is not of the essence given the broad support across the aisle; getting the details right matters rather, given that these pieces of legislation will color America's strategic competition with China for years, if not decades.

### **[Expanded Reading]**

- [Congress Passes 2022 NDAA, Sending Bill to President Biden](#), *Air Force Magazine*, December 15
- [U.S. Trade Leadership in the Indo-Pacific and China Act](#), U.S. Congress, December 2