

What's Been Happening

1 — Prospects for U.S.-China Trade and Tech Engagement — 1

[In One Sentence]

- While the Phase One Trade Agreement expired at the end of 2021, little is clear about what comes next in terms of trade engagement between Beijing and Washington.
- Washington's concerns over dual-use technology and outbound investment suggest a further tightening of export and investment controls.
- The U.S. has established domestic and international frameworks to address human rights concerns within global supply chains, but details of their implementation might be many months out.

[Mark the Essentials]

- China has extended tariff exclusions on 125 U.S. goods subject to Section 301-related retaliatory duties for six months, while simultaneously leaving in place the retaliatory duties that were imposed in response to U.S. Section 232 tariffs on Chinese steel and aluminum.
- The Biden administration recently added 34 Chinese entities to the Entity List, and bipartisan efforts are underway to legislate an outbound investment review mechanism. Meanwhile, China has called for international coordination on export controls and criticized "abuse" through small-group multilateralism.
- The U.S. Congress passed the Uyghur Forced Labor Prevention Act, which ensures that agricultural products and polysilicon, among other goods that are produced in the Xinjiang region, will remain subject to import prohibitions.

[Keeping an Eye On...]

- U.S.-China trade engagement in 2021 was like no other in the 30-plus year history of intensive U.S.-China trade and economic policy dealings. Apart from a few formulaic conversations, there was no high-level policy engagement between the two sides. Commercial ties have been the bulwark of the bilateral relationship and in any given year over the past three decades, there has typically been forthright engagement on trade and economic policy issues between the two sides. But not in 2021. The Biden administration was slow to get its China trade policy strategy in place and continues to remain reticent on the terms of trade and tech policy engagement with China in 2022. The administration's policy on instituting technology controls *vis-a-vis* China continued apace though, thereby ensuring that the balance sheet of U.S.-China trade and tech engagement in 2021 was a net negative. About the only positive element in 2021 was the expiry of the market purchases element of the Phase One Trade Agreement on December 31—an exercise of 'managed trade' that was a slap

in the face of free and fair trade practice. Hopefully, this element of the Phase One Trade Agreement will not be replicated in any form or shape again. That said, it is hard to foresee a positive agenda of engagement emanating from Washington on China trade policy, including on the tariffs front, until it rolls out its Indo-Pacific Economic Framework later in the year. Formulating a concrete framework of engagement and firming up ties with allies and partners across a range of economic policy areas prior to sorting through issues with Beijing appears to be the Biden Administration's plan of action on China, so far.

[Expanded Reading]

- [U.S. Solar Fends Off Importers; Hopes to Convince Biden to Stick With Them](#), Coalition for a Prosperous America, January 7, 2022
- [U.S. Effort to Combat Forced Labor Targets Corporate China Ties](#), *The New York Times*, January 5, 2022 [Paywall]
- [Full text: China's Export Controls](#), State Council Information Office, People's Republic of China, December 29, 2021
- [Guidance: Suspension of Liquidation in Pending Section 201 Litigation, CIT No. 20-03941](#), U.S. Customs and Border Protection, December 28, 2021
- [Biden's China Dilemma: How to Enforce Trump's Trade Deal](#), *The New York Times*, December 16, 2021 [Paywall]

2 — Prospects for Trade and Tech Engagement in the Indo-Pacific — 2

[In One Sentence]

- The Biden administration has pledged to launch an Indo-Pacific Economic Framework during the first half of 2022 that will focus on issues such as digital trade, resilient supply chains, and workers' rights.
- The Regional Comprehensive Economic Partnership (RCEP), a China-backed Asia-Pacific free trade agreement, came into effect on January 1, 2022.
- While China continues to promote its bid to join the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), the Biden administration seems to be in no mood to rejoin the agreement.
- The White House has named engagement with ASEAN one of its most important initiatives for 2022.

[Mark the Essentials]

- The administration has trumpeted that the Indo-Pacific Economic Framework will be “even more comprehensive” than traditional trade agreements such as CPTPP and will comprise a series of partnerships. However, many business representatives note that much of the desired economic framework already exists as part of the CPTPP and have questioned the lack of clear substance in the proposed Indo-Pacific framework.
- China says that RCEP will help boost Chinese competitiveness in the technology sector, attract domestic and foreign investment opportunities and improve trade commitments in areas such as services, digital trade and two-way investment. Furthermore, it will promote deeper regional integration of trade and investment flows.
- Kurt Campbell, coordinator for Indo-Pacific affairs at the National Security Council, has observed that China's application to join CPTPP is “deadly serious” and has elicited “anxious calls” from domestic and international counterparts.
- The administration has committed to strengthening economic relations with ASEAN through a Trade and Investment Framework Arrangement (TIFA).

[Keeping an Eye On...]

- Be it right or wrong, the Biden administration's Indo-Pacific strategy will in large part come to be viewed through the lens of its Indo-Pacific Economic Framework. This framework is currently being devised with allies and partners alike and might even develop into a modern version of CoCom—the Coordinating Committee for Multilateral Export Controls that was established by Western nations in 1949 to prevent the outflow of technologies to the Soviet Union and other communist countries. Selectively decoupled supply chains for decarbonization and clean energy items, as well as additional rulemaking on myriad social policy issues ranging from human rights to workers rights to personal privacy protections, will be appended to this modernized CoCom. The case for a certain degree of controls on inward investment and outbound IP-intensive exports is not in doubt, just as CoCom's case for preventing the leakage of military and industrial technologies to Moscow and its Eastern bloc allies was not in doubt. But in parallel to the establishment of CoCom, the United States also threw open its domestic market to everyone (except Eastern Bloc countries) and generously provided aid and trade financing to these countries—the most notable example of such an initiative being the Marshall Plan. Essentially, in parallel to decoupling from the Eastern Bloc countries, Washington came to the table with a strategy to engender prosperity in the 'free world' via aid and trade liberalization. Which, in turn, begs the question today: What strategy of trade liberalization and better access to the American marketplace does the Biden administration bring to the table? The drawbridge, as far as one can see, is being raised, and not being drawn aside. And if the answer is effectively none, then can other countries be faulted for signing up to trade liberalization initiatives backed by China (RCEP) or featuring potential Chinese participation (CPTPP)? The Biden administration and Capitol Hill have much work to do if the Indo-Pacific Economic Framework is to pass the credibility test in the Indo-Pacific.

[Expanded Reading]

- [How afraid should the US be of China and the RCEP?](#), *Tech HQ*, January 6, 2022
- [RCEP: China says world's largest trade pact gives it 'powerful leverage' to cope with 2022 challenges](#), *South China Morning Post*, December 31, 2021 [Paywall]
- [U.S. counters China with new Indo-Pacific framework](#), *Nikkei Asia*, December 19, 2021 [Paywall]
- [US comes a-courting in Asean as it pressures Beijing. What will it achieve?](#), *South China Morning Post*, December 18, 2021 [Paywall]
- [The Needle Biden Must Thread: How to Compete in Asia Without a New Trade Deal](#), *Barrons*, December 16, 2021 [Paywall]
- [The U.S. Can't Keep Dodging the Trade Issue in Asia](#), *Bloomberg*, December 16, 2021 [Paywall]

3 — Prospects for U.S.-EU Trade and Tech Engagement — 3

[In One Sentence]

- At the first meeting of the U.S.-EU Trade and Technology Council (TTC), the two sides committed to a renewed and wide-ranging partnership on trade and investment issues, including on emerging technologies.
- Transatlantic differences over issues such as digital privacy, standards, regulation of new technologies, as well as the proposed U.S. subsidy for electric vehicles and initiation of a fresh Section 232 'national security' probe of permanent magnet imports remain points of contention and concern.

- Both the United States and the EU have expressed their indignation at China's de facto unilateral trade sanctions against Lithuania for the latter's opening of a Taiwan representative office in its capital Vilnius under the name Taiwan rather than Taipei.

[Mark the Essentials]

- During the first TTC meeting, the U.S. and the EU agreed to jointly work on strengthening export control cooperation, rebalancing the global semiconductor supply chain, exploring ways to collaborate on investment screening, and address distortive non-market practices.
- EU officials have listed export controls as an area ripe for substantive outcomes while U.S. officials expect to reach an agreement on Privacy Shield, a transatlantic data protection compliance mechanism, in the near future.
- EU officials have criticized the Build Back Better electric vehicle tax credits and the enhanced Buy American rules—both proposed and strongly supported by the Biden administration—as discriminatory.
- The EU has extended support to Lithuania for “addressing current trade irritants with China” but also reaffirmed its commitment to a One China Policy.

[Keeping an Eye On...]

- 2021 was a honeymoon year for U.S.-EU trade ties. From the resolution of the Boeing-Airbus dispute to the deal on the Section 232 metals tariffs to a meeting of minds on digital services taxes to the creation and successful outcomes at the inaugural TTC meeting, the European Union veritably hit it off with the more multilaterally-minded Biden administration. 2022 portends a more troubled relationship on the trade and technology front. The EU's Digital Markets and Digital Services Acts, by aiming to ensure a “level playing field” (hitherto, a term applied only to China) for all digital companies, take direct aim at the large American platform companies—Google, Facebook and Amazon. Privacy Shield continues to be at the heart of an ongoing transatlantic saga, even as Beijing has sped ahead with domestic rulemaking on privacy protections that mimic if not exceed European standards in some aspects. The EU's forthright objection to the Biden administration's proposed discriminatory electric vehicle tax credits as well as its rebuff of the administration's Section 232 investigation on a rare earth element (neodymium magnets) suggests that it is not on the same page with the administration's strategic industrial policy approach. Perhaps, the most consequential difference in 2022 between the two sides might relate to China. The U.S. and the EU are unified in rooting out Beijing's distortive non-market trade and investment practices. Yet, while the EU would much prefer that its trade and investment ties with Beijing is successfully grounded on a fairer and more stable and predictable platform, it is not as clear that this is in fact the American objective or interest. How the EU and the U.S. harmonize their respective positive sum and zero sum approaches on China within the TTC framework in 2022 will provide useful insights on their complementary (or duelling approaches) on that country. The tendency of Beijing to routinely overplay its hand and help forge common cause among the U.S. and EU, as is apparent in its trade actions against Lithuania, should not be discounted.

[Expanded Reading]

- [U.S. trade chief expresses support for Lithuania amid China 'coercion'](#), *Reuters*, January 7, 2022 [Paywall]
- [Companies Face Growing Challenges to Move Personal Data From Europe](#), *The Wall Street Journal*, December 30, 2021 [Paywall]
- [Friends reunited? How the US and EU spent the year reconnecting on tech](#), *CNET*, December 16, 2021
- [Joint Statement on the Export Controls and Human Rights Initiative](#), White House, December 10, 2021