



**ICAS**  
**TRADE N TECHNOLOGY**  
**PROGRAM**

**DISPATCH**

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# TnT ICAS TRADE 'N TECHNOLOGY PROGRAM

The Institute for China-America Studies Trade 'n Technology (TnT) Program chronicles and analyzes the evolving dynamics of U.S.-China trade and technology affairs as they occur.

The goal of this program is to provide well-rounded, timely products on issues involving U.S.-China trade and technology developments and expand public dialogue surrounding this critical and contentious topic.

As one of the primary products of the ICAS TnT Program, the **TnT Dispatch** is a curated biweekly newsletter built to inform readers of notable recent developments in U.S.-China trade and technology ties.

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## What's Been Happening

**1 — Biden Administration Pursuing Supply Chain Security — 1****[In One Sentence]**

- Officials from the White House and the European Union call for harmonized collaboration between Washington and Brussels to address important supply chain challenges, especially in the area of semiconductors.
- Multiple U.S. agencies jointly updated the advisory for U.S. businesses with supply chains running through Xinjiang and added 14 more Chinese companies to Entity List in the Biden administration's latest efforts to crack down on alleged forced-labour utilization by Chinese and foreign businesses.
- The U.S. is advancing efforts to conduct its one-year reviews of supply chain vulnerabilities for the information and communication technology, defense, public health, energy, transportation, and agricultural commodities and food product sectors so as to build resilience amidst growing technology competition with China.

**[Mark the Essentials]**

- Despite disagreements over a variety of issues, officials from the U.S. and EU believe that there is shared understanding across the Atlantic that both sides should work together to address supply chain vulnerabilities and tackle these issues through a mixed approach of working with allies and building dedicated domestic and regional industrial capacity.
- The United States added an additional 14 Chinese companies to the Entity List for alleged human-rights violations, which came two weeks after the administration blocked the import of polysilicon-based products over forced labor concerns.
- A Department of Commerce official claims that the one-year supply chain review on the information and communications technology sector will reach out for stakeholders input "fairly soon."

**[Keeping an Eye on...]**

- The Biden administration is taking supply chain security seriously. Although the administration is still at an initial stage of reviewing and reassessing U.S. supply chain resilience and evaluating a wide variety of perceived threats, a multidimensional approach has steadily been taking shape. Echoing the "Build Back Better" campaign slogan, the Biden administration seeks to strengthen the U.S. supply chain on the domestic front to withstand and outcompete China. On the international front, the administration seeks to expand and rally U.S. allies to jointly build a more resilient and interdependent supply chain while addressing shared

concerns coherently. The administration carefully chose the alleged violation of human rights and forced labour issue as a unifying starting point with allies and partners that share similar values. It is worth tracking the interaction between the U.S. and its allies and partners when they start to unpack and tackle more controversial issues, such as issues that involve digital sovereignty, investment and export ties with China, etc. which could expose more disagreement than agreements amongst themselves.

### [Expanded Reading]

- [Trade Subcommittee Hearing on the Global Challenge of Forced Labor in Supply Chains: Strengthening Enforcement and Protecting Workers](#), U.S. House Ways & Means Committee, July 21
- [U.S. ramps up warnings of business risks in China's Xinjiang region](#), *Reuters*, July 13 [Paywall]
- [U.S. warns businesses connected to China's Xinjiang region run 'high risk' of violating law](#), *CNBC*, July 13
- [US warns companies on Xinjiang business, urges exit](#), *Al Jazeera*, July 14
- [U.S., UK trade chiefs meet, agree to strengthen bilateral ties](#), *Reuters*, July 13 [Paywall]
- [U.K. Trade Secretary downplays outlook for U.S. trade deal soon](#), *Bloomberg*, July 13 [Paywall]
- [Readout of Ambassador Katherine Tai's Meeting with United Kingdom Secretary of State for International Trade Elizabeth Truss](#), Office of the United States Trade Representative, July 13
- [EXCLUSIVE U.S. set to add more Chinese companies to blacklist over Xinjiang](#), *Reuters*, July 9 [Paywall]
- [Commerce adds 34 firms to trade blacklist for assisting China, other adversaries](#), *Politico*, July 9
- [U.S. blacklists 23 more Chinese entities over Xinjiang abuses, military ties](#), *Axios*, July 9
- [US, EU establish trade and technology council to compete with China](#), *The Hill*, June 15
- [America and Europe will create a joint tech council to craft new rules on trade](#), *CNBC*, June 15

## 2 — Export Control: Too Little or Too Much — 2

### [In One Sentence]

- President Biden has announced Alan Estevez, a former Defense Department official, as his pick for Undersecretary of Commerce to lead the Bureau of Industry and Security (BIS), which is in charge of administering U.S. export control policy.
- On the same day, four former directors of the BIS cautioned against taking an overly broad and holistic solution - for its lack of nuance - to blocking China from accessing crucial U.S. foundational technologies at an event hosted by China Tech Threat.
- Earlier in the week, Rep. Michael McCaul (R-TX) and Sen. Bill Hagerty (R-TN) urged Commerce Secretary Gina Raimondo to add Chinese Yangtze Memory Technologies Company (YMTC) to the department's Entity List.

### [Mark the Essentials]

- Alan Estevez, a DoD veteran who oversaw acquisition, technology and logistics, was nominated ahead of Kevin Wolf, a former Obama administration official and an export-control lawyer with abundant experience in devising and implementing export-control regulation.
- Former BIS director Bill Reinsch cautioned that if the U.S. over-controls its technology exports, it would end up undermining domestic industry and add to the incentives for China to become self-reliant.
- In the open letter, Rep. McCaul and Sen. Hagerty urges Secretary of Commerce Raimondo to add YMTC to the entity list for having "clear ties to the Party-state and military and plays a significant role in CCP plans to

control the supply chain for a strategic dual-use sector.”

### [Keeping an Eye on...]

- If confirmed, Alan Estevez will be overseeing the maintenance and revision of the Entity List, which is a key component of the Biden administration’s strategy to limit China’s access to crucial cutting edge U.S. technology. The Biden administration is still reviewing its controls policy before it decides whether to sustain, remove, or strengthen the various export control measures placed by the Trump administration. The nomination of Estevez, a DoD veteran, instead of Kevin Wolf, an export control lawyer, signals that the administration would likely address the export control matter through the lens of and with a greater emphasis on national security. Estevez’s testimony before the Senate during his confirmation hearing is expected to provide further clues on how the Biden administration wishes to advance its export control objectives in light of the rapidly-growing U.S.-China technological competition.

### [Expanded Reading]

- [Biden taps ex-Pentagon official for key China tech position](#), *Reuters*, July 13 [Paywall]
- [Biden taps ex-Defense official for key post on China tech policy](#), *Bloomberg*, July 13 [Paywall]
- [McCaul, Hagerty letter to Raimondo re. YMTC](#), *The Washington Post*, July 12 [Paywall]

## 3 — The Ghost of the Trump Deals — 3

### [In One Sentence]

- Secretary of Treasury Janet Yellen criticized the Phase One trade deal and the tariffs on Chinese imports placed under the Trump administration in her interview with the New York Times.
- Congressional members encouraged the Biden administration to consider joining the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) agreement as they argue that the Trump administration’s decision to pull out of TPP was shortsighted.
- National Security Council Coordinator for Indo-Pacific Affairs Kurt Campbell said that the Biden administration is “quietly” exploring potential trade initiatives in the Asia-Pacific region during an event hosted by the Asia Society.

### [Mark the Essentials]

- Secretary Yellen said that the Phase One trade deal with China, which was drawn-up by the Trump administration, failed to address fundamental problems between the U.S. and China, and she argued that the Section 301 tariffs that remain in place on Chinese imports are not helping the U.S. economy.
- Congressional lawmakers Sen. Tom Carper (D-DE) and Sen. John Cornyn (R-TX) are among those calling for the Biden administration to consider joining the CPTPP amidst reports that China expressed interest in joining the agreement, and that New Zealand had offered to engage informally with China in this regard.
- NSC Indo-Pacific Coordinator Kurt Campbell said that the Biden administration “fully recognizes” the importance and need to establish a forward looking trade agenda with allies in the Asia-Pacific region and explore potential trade initiatives with allies and partners; especially on digital trade.

### [Keeping an Eye on...]

- The Biden administration is currently conducting a bottom-up review of America’s trade policy ties with China, the first such review in almost 15 years . Although the USTR official website called the Phase One trade deal “a historic and enforceable agreement”, due to various reasons, including the COVID-19 pandemic,

the deal has not produced its expected outcome. Research at PIIE finds that China's purchase of American goods is still behind target. Although Secretary Yellen claimed that her comment on the trade deal and tariffs are her own personal view, it may have implications regarding the Biden administration's China tariff-related policies, especially insofar as they relate to revising or reversing the Trump administration's Section 301 and 232 tariff impositions on China. The future of these tariffs and the Biden administration's approach to addressing the fundamental market access issues with China needs to be followed closely. Meanwhile, the Court for International Trade (CIT) has granted a temporary halt to the liquidation of Section 301 duties as it reviews the case of over 3,500 American companies challenging the legality of the tariffs, which they argue has hurt U.S. businesses. How the CIT rules on the Section 301 tariffs could have a knock-on impact on how the Biden administration proceeds with addressing its trade policy challenges with China.

### [Expanded Reading]

- [Peru's Govt welcomes Congress' ratification of CPTPP trade agreement](#), *Andina*, July 15
- [Court of International Trade Issues Preliminary Injunction in Unprecedented Section 301 Litigation](#), JD Supra, July 8
- [U.S. and China can co-exist peacefully, says White House's Kurt Campbell](#), *CNBC*, July 6
- [China's US trade deal commitments more than 30 per cent short of year-to-date target, report says](#), *South China Morning Post*, June 30 [Paywall]

## On the Hill



### [Legislation]

- The United States Innovation and Competition Act (USICA), and its House version, the National Science Foundation for the Future Act, which was described by Senate Majority Leader Chuck Schumer (D-NY) as a crucial effort to enhance U.S. competitiveness against China, were passed in their respective chambers despite significant differences between the two versions.
- Both the Senate and House versions of the USICA commit to invest in semiconductor related technological innovation and development through a federal approach, although the level of commitment and scope of the research initiatives and incentives vary.
- The Democrat-sponsored Ensuring Global Leadership and Engagement Act, which also aims to counter China, received strong pushback from House Republicans, who criticized the bill's lack of language on export controls.

### [Hearings]

- The Senate Finance Committee approved the nomination of Sarah Bianchi for deputy U.S. Trade Representative for Asia, Africa, investment, services, textiles, and industrial competitiveness.
- During her confirmation hearing, Ms. Bianchi was questioned heavily by lawmakers about the Biden administration's China strategy, particularly on issues related to digital trade partnership, new trade agreements, and re-engaging allies in the Asia-Pacific.
- Senate Finance Committee member Mike Crapo (R-ID) and Chuck Grassley (R-IA) urged the Biden administration to fill the role of the chief intellectual property negotiator at USTR, a position that has

remained vacant since its creation during the Obama administration, in order to better combat intellectual property theft particularly by China.

**[Keeping an Eye on...]**

- Competition with China appears to be one of the few bipartisan areas of agreement on Capitol Hill. However, both sides of the aisle have different visions and scope as to how the United States should prepare and engage in this competition. The lack of a clearly laid out competition strategy vis-a-vis China by the executive branch further increases this uncertainty as the administration is still carefully reviewing and assessing the current situation and approaches. It is important to keep an eye on the development of the Endless Frontier Act and see how the two parties on the Hill work their differences out and come together to present a more comprehensive and cohesive legislative product that provides clearer insight as to how the U.S. plans to engage in competition with China.

**[Expanded Reading]**

- [Senate Finance advances deputy USTR nominees](#), *Politico*, July 13
- [House passes bills to make U.S. science more competitive with China](#), *Axois*, June 29
- [House Science bills greenlit by leadership](#), *Politico*, June 28
- [U.S. House Republicans oppose Democratic-led China bill](#), *Reuters*, June 28 [Paywall]
- [Deputy Trade Picks Vow To Use Allies To Counter China](#), *Law360*, June 24 [Paywall]

## 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

## What's Been Happening

1 — Slow-Walking the Build Back of U.S.-China Ties — 1**[In One Sentence]**

- The White House has nominated R. Nicholas Burns, an experienced ex-diplomat and scholar, to be U.S. Ambassador to China.
- The White House has also nominated Matthew Axelrod, a longtime criminal attorney and a Department of Justice veteran, to be the Assistant Secretary for Export Enforcement at the Commerce Department.
- Ambassador Katherine Tai supported the nomination of Christopher Wilson as the U.S. Trade Representative's first-ever Chief Innovation and Intellectual Property (IP) Negotiator, stating that he is "uniquely qualified to fill this important new position."

**[Mark the Essentials]**

- Although Burns, who had close ties to the President over the years, is not viewed as a China policy expert, his nomination marks a major shift from politician to career diplomat for Washington's top envoy in Beijing.
- Axelrod was on Biden's Department of Justice Agency Review Team and was recently serving as Special Counsel at the White House, working on both domestic and national security matters.
- The Chief IP Negotiator is expected to take on a broad range of responsibilities from strengthening enforcement of IP-related obligations in trade agreements to leading the negotiation of new IP agreements bilaterally and multilaterally, especially in the area of digital trade.

**[Keeping an Eye on...]**

- The nomination of Nicholas Burns as Ambassador to China has come at a time when the U.S.-China relationship is at a historic low. The veteran diplomat, who notably has close ties to the President, will need to play an essential role in facilitating the return of the diplomatic relationship to a more stable 'new normal'. Meanwhile, Washington also seeks to further address the challenges on the trade and technology front. The nomination of Matthew Axelrod as Assistant Secretary for Export Enforcement signals the administration's consistent view of export control measures as a critical element of its China-centric toolkit to ensure national security. If confirmed as the Chief IP negotiator, Wilson will encounter numerous IP protection-related challenges linked to relations with China. Should Burns be confirmed as Ambassador to China, it would be an equally weighty challenge for him to strike a fine balance between restoring bilateral diplomatic engagement and protecting the U.S.' national security interests on the trade and technology front.



### [Expanded Reading]

- [Biden Nominates Burns and Emanuel to Be His Ambassadors to China and Japan](#), *New York Times*, August 20 [Paywall]
- [Biden picks Burns for China ambassador; Emanuel for Japan](#), *AP News*, August 20
- [President Biden Announces His Intent to Nominate Three Individuals to Serve as Ambassadors](#), The White House, August 20
- [Statement from Ambassador Katherine Tai on Pagán and Wilson Nominations](#), Office of the United States Trade Representative, August 10
- [Biden Taps Obama Justice Veteran for Commerce Export-Control Job](#), *Bloomberg*, August 18 [Paywall]

## 2 — **Build Back Stronger Ties with Southeast Asia** — 2

### [In One Sentence]

- U.S. Vice President Kamala Harris visited Singapore and Vietnam during her recent Southeast Asia trip.
- The U.S. Chamber of Commerce had urged Vice President Harris to use this trip to initiate discussions on digital economy standards and deepen trade ties with the region.
- In public remarks, the Vice President placed accusations against China over the South China Sea dispute and reaffirmed U.S. commitment to regional allies and partners and said that the U.S. would not push Asia to pick sides.

### [Mark the Essentials]

- During an August 24 speech delivered in Singapore, U.S. Vice President Kamala Harris offered the U.S.' chairpersonship of APEC (Asia-Pacific Economic Cooperation) in 2023 and reaffirmed an “enduring” U.S. commitment to Southeast Asia and the Indo-Pacific.
- Earlier, during her Singapore visit, Vice President Harris and Singapore Prime Minister Lee Hsien Loong said the two countries would launch a U.S.-Singapore partnership for growth and innovation as well as a high-level dialogue on supply chain resilience.
- It was reported that trade and supply chain issues featured heavily in the Vice President’s agenda of discussion with Singapore and Vietnam—both of whom are viewed as “important economic partners.”

### [Keeping an Eye on...]

- The Vice President’s trip to Asia, which is also her first visit beyond the American continent, sends a strong signal that the U.S. is committed to the Southeast Asian region, which was relatively “ignored” by the previous administration. The outcome of her trip, especially the cooperative arrangements with Singapore, indicates a consistent desire on the part of this administration to address supply chain and trade policy challenges. That being said, a single vice-presidential trip cannot fully address the dilemmas that Washington faces in the region. On one hand, China’s proximity and its economic power makes it an irresistible trading partner and makes Southeast Asian nations’ alignment with the United States less likely. On the other hand, the Southeast Asian and the broader Indo-Pacific region is also the critical locus of ongoing supply chain competition between China and the U.S. To successfully swing the region towards a more favorable alignment with American economic interests, this administration will have to contribute more than just security commitments and sectoral digital trade deals.



### [Expanded Reading]

- [US offers to host Apec meeting in 2023: Kamala Harris](#), *The Strait Times*, August 24
- [Remarks by Vice President Harris on the Indo-Pacific Region](#), The White House, August 24
- [Harris Blasts China, Says U.S. Won't Push Asia to Pick Sides](#), *Bloomberg*, August 23
- [Official Visit of Vice President of the United States of America Kamala D. Harris, 22 to 24 August 2021](#), Singapore Ministry of Foreign Affairs, August 23
- [FACT SHEET: Strengthening the U.S.-Singapore Strategic Partnership](#), The White House, August 23
- [Harris touches down in Southeast Asia](#), *Politico Weekly Trade*, August 23
- [VP's Visit to Southeast Asia Affirms Need to Enhance U.S. Trade Ties](#), U.S. Chamber of Commerce, August 18

## 3 — Slow on China, Swift on Digital Trade — 3

### [In One Sentence]

- Ambassador Katherine Tai said that the Biden administration and USTR are conducting a “comprehensive review of U.S.-China trade policy.”
- Earlier, in an August 19 interview, Ambassador Tai said that the U.S. is “actively working” with partners to establish rules for the digital economy.
- U.S. and European Union officials said that they would hold their first Trade and Technology Council (TTC) meeting this September.

### [Mark the Essentials]

- The TTC's working groups, concentrating on specific topics and mandates, have been instructed to meet separately ahead of the first U.S.-EU Trade and Technology council meeting in September 2021.
- Studies show that most companies are satisfied with the e-commerce provisions in the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) agreement, while a few have raised concerns over enforcement quality.

### [Keeping an Eye on...]

- Seven months into the Biden administration, the White House has yet to lay out its overall trade policy strategy and approach vis-a-vis China. An overarching approach provides critical guidance to the substantive aspects of policy, including in rapidly evolving areas of rulemaking such as digital trade. The lack of an overall approach does not help either in understanding the next steps forward on the destructive Trump-era tariffs. On the other hand, trade and technology cooperation with its allies and partners in Europe and the Asia-Pacific continues apace, although with some hiccups there too. There will nevertheless come a point—and it will come soon—when Washington needs to establish a clear trade policy-related strategy on China, especially given China's active stance on trade policy liberalization and digital economy regulation. Without a clear trade policy strategy vis-a-vis China, America's pursuit of reengaging regionally and multilaterally will face coordination problems with European and Asian partners.

### [Expanded Reading]

- [The U.S. is reviewing its trade policy with China, says USTR Katherine Tai](#), *CNBC*, August 25
- [Readout of Ambassador Katherine Tai's Virtual Meetings with U.S. Chamber China Center Advisory Board and US-China Business Council](#), Office of the United States Trade Representative, August 24

- [U.S. Chamber China Center Advisory Board Welcomes Meeting with USTR Katherine Tai Pledges Cooperation to Support U.S. Workers, Advance Innovation, and Strengthen the U.S. Economy](#), U.S. Chamber of Commerce, August 24
- [Talking trade with Ambassador Tai](#), *Northwest Asian Weekly*, August 19
- [What Do CPTPP Member Country Businesses Think about the CPTPP?](#), Center for Strategic and International Studies, August 24
- [Potential for progress, obstacles as U.S.-EU trade and tech council gets started](#), *Inside U.S. Trade*, August 16
- [POLITICO Digital Bridge: Online extremism — Post-COVID surveillance — Trade and Tech Council](#), *Politico*, July 29

## On the Hill



### [In One Sentence]

- Senate Democrats introduced the Industrial Finance Corporation Act to finance investments in high-tech and advanced manufacturing.
- Senator Bob Casey has proposed a bill to screen outbound investments that threaten national critical capabilities, which might get bundled into the National Defense Authorization Act.
- The work of establishing funding for the CHIPS Act remains a slow-moving process with minimal forward movement.

### [Mark the Essentials]

- Sen. Chris Coons and six other Senate Democrats propose to authorize the creation of an Industrial Finance Corporation of the U.S. to finance projects in sectors of significance to national security, such as semiconductors, quantum computing, artificial intelligence, cybersecurity, and biotechnology.
- Sen. Casey and Sen. Cornyn co-sponsored the proposal as an amendment to the US Innovation and Competition Act (USICA) this May, but which was voted down due to strong lobbying pressure from industry.
- National Security Advisor Jake Sullivan had hinted earlier in the year that the Biden administration was actively studying an outbound investment screening mechanism.

### [Keeping an Eye on...]

- Lawmakers continue their push for legislation aimed at competing with China in the high-technology and advanced manufacturing sector. There are two general approaches: 1) invest in U.S. high-tech industry and build up U.S. advanced manufacturing capacity and innovation capabilities, and 2) use regulations to control the flow of building block technologies and critical equipment and instruments to China. Although Congress has been united in principle on competing aggressively with China, the devil has lain in the details, leading to more divergence than convergence across the aisle.

### [Expanded Reading]

- [Sen. Coons, colleagues seek to create new domestic manufacturing investment corporation](#), Senator Chris Coons Press Release, August 12
- [The Bill That Could Truly, Actually Bring Back U.S. Manufacturing by Robinson Meyer](#), *The Atlantic*, August 18



# ICAS TRADE N TECH DISPATCH

September 16, 2021

Volume 1, Issue 4

## What's Been Happening

### 1 — Calls for a Clear Trade Agenda with China Grows — 1

#### [In One Sentence]

- The White House still declines to offer a timeline for the administration's completion of the ongoing U.S. trade policy review of China.
- More business groups have joined the effort to urge the Biden administration to release a comprehensive China strategy regarding trade and tariffs.
- Calls for a comprehensive and active trade policy regarding China have also been growing louder on Capitol Hill.

#### [Mark the Essentials]

- The National Association of Manufacturers (NAM) wrote a letter to top officials of the Biden administration, including Secretary of State Antony Blinken and USTR Katherine Tai, urging the administration to release a “comprehensive China strategy.”
- This letter by NAM called for the administration's China trade strategy to include enforcement of the ‘Phase One’ commitments, efforts to engage with Beijing over various trade-related frictions, and a restart of the product-exclusion process for goods hit by Section 301 tariffs.
- Lawmakers, including Sen. Chuck Grassley, have criticized the Biden administration's lack of a trade agenda, especially with regard to China.

#### [Keeping an Eye on...]

- Although engagement with China is gradually being restored, albeit with a number of ups and downs, the Biden administration has done very little thus far to set the tone on the U.S.-China trade policy front. The charitable reason for this tardiness is that the Biden team wants to get its China trade policy right, especially in the context of its comprehensive review of China trade policy that is being conducted—the first in almost fifteen years. The team is also seized of China investment and industrial policy matters. The less charitable reason for this delay is that the Biden team lacks the political courage to take the hard decisions to rescind the politically salient but economically destructive tariffs—in part, due to the Biden team's own soft protectionist leanings on the matter as well as its linkages with interest groups that benefit from these tariffs. And so, in aiming to thread the needle, the Biden administration is biding its time in order to get its political strategy right, including sorting through the tariff-related demands that will be presented to Beijing. Regardless, the public demand for a clearer trade agenda with China has significantly grown over the past few

months as global trade has begun to slowly recover from the pandemic. And without an agenda to manage bilateral trade relations between the world's two largest economies, rising anxiety—from both business groups and lawmakers—coupled with inconsistencies among its various trade policies will breed an even bigger headache for the administration if left unaddressed.

### [Expanded Reading]

- [NAM Asks Administration to Complete China Strategy Quickly, Restore Section 301 Exclusions](#), *International Trade Today*, September 2 [Paywall]
- [Businesses Push Biden to Develop China Trade Policy](#), *New York Times*, September 1 [Paywall]
- [Press Briefing by Press Secretary Jen Psaki](#), White House, September 1
- [Grassley Concerned About Biden's Lack of Trade Agenda](#), *Brownfield Ag News*, August 27

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## 2 — Old Tariffs Exiting, (Possible) New Tariffs Entering — 2

### [In One Sentence]

- The U.S. government has agreed to refund some liquidated duties if the Section 301 tariffs on Chinese goods are struck down in court.
- The Coalition of American Metal Manufacturers and Users urged President Biden to remove the Section 232 tariffs that have been imposed on steel imports.
- White House officials are considering a Section 301 investigation into Beijing's use of industrial subsidies; a process that might or might not lead to new tariffs.

### [Mark the Essentials]

- The U.S. government has adjusted its previous position on Section 301 tariffs, agreeing to refund some liquidated duties if it loses its case at the Court of International Trade (CIT), but still defers to the court over the necessity of a repository.
- The metal manufacturers argued that the tariffs on steel imports are hurting America's economy since it causes the steel-using manufacturers—who will play an important role if the infrastructure bill is passed—to pay considerably more than their Chinese and other overseas counterparts.
- The administration is in discussions about launching an investigation into Chinese industrial subsidies under Section 301 of U.S. trade law while simultaneously looking to team up with its global allies and partners to rally support within the WTO to tackle this issue.

### [Keeping an Eye on...]

- The use of tariffs was a convenient—but blunt—tool of recourse to beat China with during the Trump years. Although the Section 301 tariffs were found to be illegal by a WTO panel earlier this year and the Section 232 tariffs, too, will invite a similar ruling in due course, the larger shortcoming of these tariffs was their deleterious economic effect on manufacturers in both the U.S. and China (although Vietnamese and Taiwanese manufacturers might beg to differ). Acknowledging the escalating cost of throwing sand into the wheels of U.S.-China trade ties, the Biden administration appears increasingly keen to find workarounds so that the harmful domestic economic effects of the tariffs can be softened, while the tariffs - and perhaps even a new set of Section 301 tariffs - are simultaneously leveraged to elicit improvements in Chinese economic practices and behavior. Whether this deft piece of jugglery can be carried out remains to be seen. But judging

from the economic effects of the existing Section 301 tariffs, common sense would dictate against a new round of tariff impositions.

#### [Expanded Reading]

- [Biden Administration Takes Aim at China's Industrial Subsidies](#), *Wall Street Journal*, September 11 [Paywall]
- ['Not Possible' to Suspend Section 301 Liquidations en Masse, DOJ Says](#), *International Trade Law Daily*, September 1 [Paywall]
- [US metals end-users ask Biden to drop steel tariffs amid record prices](#), *S&P Global Platts*, September 1
- [USTR Seeking Comments on Continuing Section 301 Tariff Exclusions for Certain Medical Imports from China Necessary for COVID-19 Response](#), *SmarTrade*, August 27
- [Request for Comments on Certain Products Exclusions Related to COVID-19](#), Office of the United States Trade Representative, August 27

### 3 — Funding for Domestic S&T Industry on the Rise — 3

#### [In One Sentence]

- Commerce Deputy Secretary Don Graves said that he “expected” Congress to fund the CHIPS Act soon.
- The House has made a nonbinding commitment to conduct a vote on the Senate’s \$1 trillion infrastructure bill by September 27.
- American magnet manufacturers are backing up a proposed House bill that would subsidize rare earth magnet manufacturing in the U.S.

#### [Mark the Essentials]

- Deputy Secretary Graves said that Congress has heard “loud and clear” from not only the business community but also constituents about the urgency of getting legislation passed to address chip shortages.
- Magnet manufacturers argued that the U.S. remains vulnerable as China supplies 90% of the world’s needs and suggested that the U.S. should subsidize domestic production to counter China.
- Senator Joe Manchin has urged Congress to “hit the pause button” on passing the budget reconciliation package over its topline spending number and the ensuing debt concerns.

#### [Keeping an Eye on...]

- The major driver of the call for accelerated investment in the U.S. domestic S&T sector is the unfolding competition with China to capture, and consolidate, the commanding heights in the areas of advanced manufacturing and high-technologies. Re-onshoring is also viewed as a key means to endow resilience and integrity to critical supply chains. However, re-onshoring does not come cheap. Moreover, its industrial subsidies element is conjoined with more complex philosophical debates of the role and value of ‘industrial policy.’ Congress is currently sorting through these issues, including in light of the fiscal burden of providing such industrial support.

#### [Expanded Reading]

- [Sen. Joe Manchin says there's no way to pass \\$3.5 trillion budget bill by September 27](#), *CNBC*, September 12
- [Manchin tells Dems to 'hit the pause button' on \\$3.5T spending plan](#), *Fox Business*, September 2
- [House to Vote on Infrastructure Bill by September 27th](#), *For Construction Pros*, August 25

- [House Democrats clear path toward passing \\$3.5 trillion budget bill and infrastructure plan after breaking stalemate](#), *CNBC*, August 24
- [US rare earth magnet sector seeks support](#), *Metal Tech News*, September 1
- [U.S. House bill would give tax credit for rare earth magnets](#), *Reuters*, August 10 [Paywall]

## On the Hill



### [In One Sentence]

- The Chinese Ambassador said that anti-China bills “will hijack China-U.S. relations.”
- Lawmakers have asked the Biden administration to address non-tariff trade barriers that China allegedly imposes on agricultural biotechnology.

### [Mark the Essentials]

- Chinese Ambassador to the U.S. Qin Gang singled out USICA (U.S. Innovation and Competition Act) Act and the EAGLE (Ensuring American Global Leadership and Engagement) Act, criticizing these bills for damaging America’s own interest.
- During the same speech, Ambassador Qin also called for stronger U.S.-China ties, increased cooperation, and lowered overall tensions.
- A group of Democrats on the House Agriculture Committee criticized China for failing to meet its commitments on biotechnology regulations and called for the Biden administration to take action accordingly.

### [Keeping an Eye on...]

- Both USICA and the EAGLE Act have strong elements emphasizing competition with China, especially in the science and technology sector. While it is not clear whether the strong emphasis on competition with China is sufficient to push these bills across the finish line on a bipartisan basis, these elements will have significant implications for the development of U.S.-China relations. Lawmakers have also expanded their concerns from traditional S&T manufacturing to broader technology-linked standards setting as well as agricultural biotechnology-related regulations. The U.S.-China ‘Phase One’ agreement was replete with such agricultural biotechnology-related regulations, and USTR’s first order of business once it re-establishes a concerted dialogue with Beijing will be to enforce these biotech-related provisions.

### [Expanded Reading]

- [China's new ambassador to the U.S. goes full wolf in first major speech](#), *Politico*, September 1
- [Keynote Speech by Ambassador Qin Gang at the Welcome Event by the National Committee on US-China Relations Board of Directors](#), Embassy of the People’s Republic of China in the United States of America, August 31
- [Chairman David Scott and Democratic Committee Members Issue Letter Expressing Concern Regarding Biotech Trade Barriers](#), House Agriculture Committee, September 2



## What's Been Happening

**1 — More Positives than Negatives at Inaugural U.S.-EU Trade and Tech Council Meet — 1****[In One Sentence]**

- Top-level U.S. and EU officials participated in the first Trade and Technology Council (TTC) meeting this Wednesday.
- While some U.S. officials said the council could serve as a way to counter Beijing, EU officials played down the “confrontational” nature of the platform vis-a-vis China.
- EU officials have also toned down expectations for the council’s outcomes.

**[Mark the Essentials]**

- On September 29th, the Biden administration and senior officials of the European Commission held a largely-successful inaugural meeting of their Trade and Tech Council (TTC), capped off with a lengthy joint statement [For key takeaways from the Joint Statement, see the Special Section below].
- Going into the meeting, David Ringrose, deputy director general at the European Commission’s Directorate-General for Communications Networks, Content and Technology had observed that the EU did not want the U.S.-EU dialogue on China to degenerate into an “anti-China exercise”, nor would the EU give the U.S. a “privileged channel” into its legislative processes through the TTC.
- In the meantime, the European Union, like the U.S., is considering an initiative to onshore semiconductor manufacturing to Europe.

**[Keeping an Eye on...]**

- The Trade and Technology Council (TTC) marks a solid step forward by the U.S. in reaching out to its allies and partners to address challenges and chart rules concerning trade, technology and cross-border data flows. While addressing the current chips shortage is the most urgent matter on the table, TTC’s work is to be simultaneously focused on the longer-term goal of “rebalancing” (i.e. reshoring) global semiconductor manufacturing capabilities back to the U.S. and the EU. Efforts to reshore could trigger a government subsidies race, so these policies need to be coordinated closely. The two sides also arrived at a range of outcomes on export controls, investment screening and trade policy challenges. That being said, the two parties continue to hold different views on the topic of digital regulation as well as on China, which will have implications as to how they proceed while addressing their industrial policy challenges.

### [Expanded Reading]

- [U.S.-EU tech trade summit clouded by French reservations](#), *Reuters*, September 28
- [U.S., EU to discuss global trade and tech cooperation as they seek to counter China](#), *CNBC*, September 27
- [EU Confirms Inaugural Trade-Tech Summit With U.S. to Go Ahead](#), *Bloomberg*, September 23
- [CSD meeting on the EU-US Trade and Technology Council](#), *European Commission*, European Commission, September 15

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## 2 — A Race for CPTPP? — 2

### [In One Sentence]

- China has officially applied to join the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) agreement.
- In response, lawmakers again urged the Biden administration to re-engage Asia Pacific allies on trade.
- The White House suggested that the U.S. would be open to renegotiating its entry into CPTPP at a later point of time but noted that trade is only one of “a range of ways” to forge partnerships in the Indo-Pacific.

### [Mark the Essentials]

- Following consultations with CPTPP members in recent months, Beijing has officially filed its application to join the trans-pacific trade pact with New Zealand, which is the depositary for CPTPP.
- Tom Carper and John Cornyn, leading members of the Senate Finance Trade Subcommittee, called China’s move to join CPTPP “troubling” and urged the Biden administration to “get our seat back at the table to re-engage our Asia Pacific allies in trade.”
- White House Press Secretary Jen Psaki noted that while the U.S. would stay abreast of developments, it would leave it to members of CPTPP to determine whether or not China should join.

### [Keeping an Eye on...]

- There is a growing anxiety in Washington, D.C. that the Biden administration is unable to formulate a clear Asia-Pacific trade as well as China trade and tariff strategy. This anxiety is in keeping with the view that the Biden administration is consumed with domestic economic matters and has put new trade deals on the back burner. While USTR is examining its level of interest in a new digital trade deal with America’s allies and partners in Asia-Pacific, there is no indication as yet that the administration wishes to seriously re-engage with the process of rejoining CPTPP. Even China’s CPTPP application has not shifted the needle in this regard. That said, via a provision introduced in the USMCA agreement with Canada and Mexico, Washington will have the means to influence Ottawa’s and Mexico City’s stances as they engage their CPTPP partners, and Beijing, in the course of examining China’s formal CPTPP application.

### [Expanded Reading]

- [Carper, Cornyn React to China’s Initial Move to Join Pacific Trade Pact](#), U.S. Senator for Delaware Tom Carper Press Release, September 20
- [China’s bid to join Pacific Rim trade pact heaps pressure on US to step up regional economic strategy](#), *South China Morning Post*, September 18
- [China applies to join Pacific trade pact to boost economic clout](#), *Reuters*, September 17
- [Press Briefing by Press Secretary Jen Psaki, September 16, 2021](#), White House, September 16



### 3 — Biden's Emerging Export Control Agenda — 3

#### [In One Sentence]

- Alan Estevez, who has been tapped to lead the Commerce Department's Bureau of Industry and Security (BIS), pledged to withhold core and sensitive technologies from China's reach during his nomination hearing.
- Echoing earlier claims by BIS officials, Estevez defended multilateral export controls as the most effective approach.
- Bureau of Industry and Security officials have made it clear that they will not be issuing a definitive list of emerging technologies subject to export controls.
- Key U.S. departments are divided over whether to place Honor, Huawei's former smartphone company, on the Entity List.
- The Commerce Department launched a formal investigation into imports of neodymium-iron-boron permanent magnets over "national security" concerns.

#### [Mark the Essentials]

- Alan Estevez and Thea Kendler, the latter who is nominated to lead BIS' export administration arm, were grilled extensively on the issue of China-related export controls during their confirmation hearing before the Senate Banking, Housing and Urban Affairs Committee.
- Estevez also used the hearing to assure the committee that the administration would resort to a Section 232 investigation only for the "strictest" national security concerns.
- The investigation into imports of neodymium-iron-boron permanent magnets over "national security" concerns is to be conducted under Section 232 of the Trade Expansion Act of 1962 - the first such Section 232 investigation launched by the Biden administration
- Officials at the Pentagon and Energy Department supported placing smartphone maker Honor, which was sold by Huawei, on the Entity List while the Commerce Department and State Department opposed the action.

#### [Keeping an Eye on...]

- Export controls work best when they have multilateral buy-in; not when they are unilateral and imposed without consultation. This is an important lesson learnt by the Biden administration from the failings of its predecessor. Another important lesson learnt is that the designation of export-controlled items must be determined with extreme care. Technology controls imposed bluntly have the potential to backfire, leading to the 'designing out' of domestic technologies and products. The Honor case as well as the new and narrowly-targeted Section 232 'national security' investigation are important indicators of the Biden administration's more nuanced approach, so far, on this issue.

#### [Expanded Reading]

- [Joe Biden's nominee for key China export post expects Huawei to remain blacklisted](#), *South China Morning Post*, September 22
- [U.S. Commerce Nominees Vow to Keep Key Tech Out of China's Hands](#), *Bloomberg*, September 21
- [Nomination Hearing](#), United States Senate Committee on Banking, Housing & Urban Affairs, September 21
- [Key security agencies split over whether to blacklist former Huawei smartphone unit](#), *Washington Post*, September 19
- [US penalties for technology sales to China have soared this year, Commerce Department official says](#), *South China Morning Post*, September 9



### --- Key Takeaways from the Inaugural TTC Joint Statement ---

On September 29th, the U.S.-EU Trade and Technology Council (TTC) held its inaugural ministerial-level meeting in Pittsburgh. The meeting charted the course forward on the work programs for the working groups under the TTC, and defined further near-term goals. The Joint Statement issued after the meeting also addressed **five substantive areas** of cooperation. These are:

**Cooperation on Export Controls of Dual Use Items.** The two sides agreed to:

- Consult each other on legislative and regulatory developments, compliance and enforcement approaches.
- Exchange information on risks related to export/transfer of sensitive technologies
- Develop convergent control approaches for the control of trade in sensitive dual-use technologies.
- Build capacity to assist third countries in implementing international export control mechanisms.
- Work in close partnership with industry and civil society.

**Investment Screening** cooperation. The two sides agreed to:

- Meet periodically to exchange best practices on effective investment screening.
- Discuss tools addressing risks related to specific sensitive technologies.
- Promote shared principles, such as non-discrimination between foreign investors and transparency of rules.
- Explore ways of intensifying engagement with stakeholders and other partners.

**Secure Semiconductor Supply Chains.** The two sides agreed to:

- Explore ways to help rebalance the global semiconductor supply chains (including respective security of supply and respective capacity to design and produce semiconductors).
- Work jointly so that any investment made on US and EU territories is done in full respect of their respective security of supply.
- Enhance cooperation to advance transparency and communication in the semiconductor supply chain.
- Collaborate in analyzing the roots of current semiconductor shortages.

**Technology Standards Cooperation.** The two sides agreed to:

- Develop approaches for coordination and cooperation in critical and emerging technology standards, including Artificial Intelligence (AI).
- Support for the development of technical standards in line with core values.
- Foster participation in standards organizations for civil society organizations, start-ups, small and medium sized enterprises in emerging technologies.

**Global Trade Challenges.** The two sides agreed to:

- Share information on third country non-market distortive practices that impact EU and US workers and businesses and explore how to mitigate these impacts.

- Exchange information on both sides' domestic measures taken against distortive practices, and coordinate the future development of these measures.
- Cooperate in order to avoid new unnecessary barriers to trade in emerging technologies, while ensuring that legitimate regulatory objectives are achieved.
- Share information on measures related to the respect for fundamental labor rights and the prevention of forced and child labor, and cooperate to promote this work in international organizations.
- Consult on the inclusion of trade-related climate and environment issues under the working group on global trade challenges.

## What's Been Happening

**1 — Lack of Clarity on U.S. Trade Policy Towards China — 1****[In One Sentence]**

- U.S. Trade Representative (USTR) Katherine Tai said on October 4 that she hopes to re-engage with Beijing on Phase One commitments and unaddressed U.S. concerns.
- USTR is also planning to restart the Section 301 tariff exclusion process.
- Ambassador Tai held a virtual meeting with China's Vice Premier Liu He on October 8 to discuss the U.S.-China trade relationship.

**[Mark the Essentials]**

- When asked whether decoupling with China is a priority, Ambassador Tai instead emphasized “re-coupling,” with the U.S. reframing the terms of re-engagement and occupying a stronger position within the supply chain.
- The ‘structure’ and format of the Phase One agreement, set by the previous administration, is “where we have to start” the conversation with China, according to Ambassador Tai. What the next steps are and how the format of engagement evolves going forward, will depend on how the conversation proceeds with China.
- Despite planning to relaunch the exclusion process, Ambassador Tai noted that Section 301 is a “very important” trade enforcement tool and that “all available tools” will be looked at in addressing U.S. trade and investment concerns.

**[Keeping an Eye on...]**

- Ambassador Tai's keenly awaited policy speech was something of a letdown, given her abstract vision of U.S. trade policy towards China and her lack of concrete details on numerous pressing issues. While it is fine for her to hold China's feet to the fire on its Phase One market purchase commitments, questions abound regarding not only the carry-over of these commitments into 2022 and 2023 but also the administration's stance on initiating negotiations towards a Phase Two agreement on the difficult ‘structural’ issues — state-owned enterprises, industrial subsidies, etc. — that divide Washington and Beijing. USTR Tai's lack of a liberalizing vision, contrasted with her intensity on (trade) enforcement, was worrying as well. That said, the tone of Ambassador Tai's remarks on engaging China was constructive in comparison with her predecessor's tone. Whether this change of tone (but lack of ambition or detail) will help or hamper the advancement of U.S.-China trade and economic discussions remains to be seen. The outlook for robust outcomes from these discussions does not look bright, however, at this admittedly early stage.

### [Expanded Reading]

- [U.S.-China Trade Talks Take First Steps in Re-Engagement](#), *Wall Street Journal*, October 8 [Paywall]
- [Readout of Ambassador Tai's Virtual Meeting With Vice Premier Of China Liu He](#), Office of the United States Representative, October 8
- [U.S. Trade Chief to Engage With China on Trump-Deal Shortfalls](#), *Bloomberg*, October 4 [Paywall]
- [A Conversation with Ambassador Katherine Tai, U.S. Trade Representative](#), Transcript, Center for Strategic & International Studies, October 4

## 2 — A First Step towards Multilateral Cooperation: What's Next? — 2

### [In One Sentence]

- The first Trade and Technology Council (TTC) meeting led to useful outcomes and restored a sense of common purpose in trans-Atlantic relations, U.S. and EU officials noted.
- U.S. officials shone the spotlight on the role of “non-market economies” and the use of technologies to “suppress dissent” at OECD meetings.
- The U.S. must “fully engage” with its Indo-Pacific partners, Amb. Katherine Tai noted in response to a question about the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) agreement.

### [Mark the Essentials]

- Export controls is an area where the U.S. and EU plan to move quickly and reach substantive outcomes, European Commission Executive Vice President and Trade Commissioner Valdis Dombrovskis noted after the conclusion of the Trade and Technology Council (TTC) meeting in Pittsburgh.
- At the OECD-led meetings in Paris, Ambassador Tai called out the “global distortive practices” of “non-market economies” and mentioned China explicitly in this regard, while Secretary of State Blinken observed that emerging technologies should be used to “advance human freedom” rather than “suppress dissent, further entrench inequities, or target minority communities.”
- When asked about the U.S.’ reengagement with CPTPP, Ambassador Tai refrained from committing to joining the pact, claiming instead that the U.S. should address “realities and challenges” that came to light following the conclusion of the TPP negotiations.

### [Keeping an Eye on...]

- The Trade and Technology Council (TTC) meeting marks a solid step forward as the United States works to strengthen and reinvigorate cooperation with its European allies and partners, which the White House considers an important component of the United States’ competition with China. The TTC meeting also provided an important platform to address semiconductor-related issues; both the chip shortage that has caused widespread short-term disruptions as well as the potential for developing longer-term fabrication reshoring. On the other hand, the differences between the two sides on digital policy issues were glossed over for the time being. The Biden administration’s lack of equivalent clarity on trade and investment engagement with its Indo-Pacific partners has left many in the region underwhelmed. Its evasive attitude on engaging with the CPTPP in particular has called into question its economic strategy and commitment to the region.

### [Expanded Reading]

- [Readout of Ambassador Katherine Tai's Participation in the OECD Ministerial Meeting](#), Office of the United States Trade Representative, October 6

- [Secretary Antony J. Blinken at OECD Opening and Keynote Address](#), U.S. Department of State, October 5
- [US, EU agree to further trade and technology talks](#), *AP News*, September 29
- [FACT SHEET: U.S.-EU Establish Common Principles to Update the Rules for the 21st Century Economy at Inaugural Trade and Technology Council Meeting](#), White House, September 29

### 3 — The Solar Panel Row — 3

#### [In One Sentence]

- An anonymous industry group asked the Commerce Department to investigate select Southeast Asian companies that are allegedly helping Chinese solar products circumvent U.S. tariffs.
- In response, nearly 200 U.S. solar companies urged Commerce against imposing solar tariffs on the Southeast Asian companies.
- The Commerce Department has delayed its decision and asked for more information on the matter.
- China criticized a WTO panel decision that upheld U.S. tariffs on Chinese solar products.

#### [Mark the Essentials]

- According to the anonymous industry group that submitted the petition, companies in Vietnam, Malaysia and Thailand are shipping components from China and applying “minor processing” to circumvent tariffs targeting Chinese solar cells and modules.
- The industry group petitioned the Commerce Department to impose anti-circumvention tariffs equivalent to that imposed on Chinese companies on these offending Southeast Asian companies.
- U.S. solar companies in response told Commerce that imposing such tariffs “would devastate the industry and each of our companies.”
- Separately, China has appealed the WTO panel report on the U.S.’ solar safeguard measures, leaving the case dumped in the pending casefile of the currently nonfunctioning WTO Appellate Body.

#### [Keeping an Eye on...]

- Solar panels and solar cells have been at the forefront of U.S.-China technology competition as well as trade frictions over the past decade. They are also the textbook case of an industry that has pitted domestic upstream and downstream companies against each other, given the contrasting effects of Chinese — and Asian — supply on upstream producers and downstream users. With a sizable chunk of U.S. buildout of solar capacity dependent on inexpensive Asian supply, the Biden administration has its work cut-out on balancing the interests of its domestic producers and simultaneously achieving its ambitious renewable energy goals. The upstream producers’ claims of being undercut by Asian — and specifically Chinese — producers due to excess capacity in China is not a meritless one, though. A WTO dispute settlement panel sustained a Trump administration safeguard tariff that had been imposed in this regard against a Chinese legal challenge.

#### [Expanded Reading]

- [U.S. trade officials delay decision on new solar tariffs](#), *Reuters*, September 29 [Paywall]
- [China calls WTO ruling 'dangerous' in solar cell row with U.S.](#), *Reuters*, September 27 [Paywall]
- [WTO Panel Rejects China’s Solar Safeguard Challenge](#), Office of the United States Trade Representative, September 2



### [In One Sentence]

- In a newly introduced bill, lawmakers proposed expanding CFIUS' review of foreign investment to cover agricultural supply chains and R&D.
- Senators reintroduced a bill that requires congressional approval for Section 232 tariffs based on national security concerns.
- Republican lawmakers criticized Amb. Katherine Tai and the Biden administration for failing to present a concrete trade policy toward China.

### [Mark the Essentials]

- Democratic lawmakers have also urged Amb. Tai to closely work with allies and hold Beijing accountable for its trade distorting practices as well as on its Phase One commitments.
- Also with an eye on China, legislators are seeking to shield the U.S. agricultural sector by subjecting foreign investment transactions with “bad actors” to expanded federal scrutiny via the CFIUS process.
- The Trump administration's abuse of the national security argument to advance economic welfare objectives has spurred Congress to reassert its trade policy prerogative with regard to the Sections 232 investigation process.

### [Keeping an Eye on...]

- Lawmakers continue to be agitated on trade issues that have a China linkage, especially given the Biden administration's less-than-forthright stance on these issues. However, opinions in Congress on trade policy issues concerning China are not necessarily aligned. Some lawmakers who have an economically nationalist bent of mind seek to take advantage of supply chain resilience-related vulnerabilities and conflate food security with national security concerns, and thereby elbow out Chinese investors. Other lawmakers who have a more economically internationalist bent of mind would rather ensure that a future economically nationalist U.S. president is not allowed to abuse Congress' delegated trade authority to conflate national security with economic security objectives. A widening chasm separates these two groups in Congress, which is up-to-a-point making bipartisan consensus on elements of trade policy towards China harder to achieve.

### [Expanded Reading]

- [Bill Would Add Ag Secretary to CFIUS](#), *International Trade Today*, October 13 [Paywall]
- [Tuberville Introduces Bill to Combat Foreign Influence in U.S. Agriculture Industry](#), U.S. Senator for Alabama Coach Tommy Tuberville Press Release, October 5
- [Toomey, Warner Reintroduce Legislation to Restore Authority Over “National Security” Tariffs](#), U.S. Senator for Pennsylvania Pat Toomey Press Release, October 5
- [Tweet](#), Senator Chuck Grassley, October 5
- [Kildee Urges Biden Administration to Take Trade Enforcement Action Against China](#), Congressman Dan Kildee Press Release, October 4
- [Chairman Neal welcomes Biden administration's approach to the U.S.-China trade relationship](#), Ways & Means Committee Chairman Richard Neal Press Release, October 4

- [Blumenauer Applauds Biden Administration's China Trade Strategy Following Critical Speech by U.S. Trade Representative Tai](#), U.S. Congressman Earl Blumenauer Press Release, October 4
- [Brady: To Confront China, Biden Admin Should Pursue China Phase Two, New Trade Agreements, and Work with Congress](#), Ways and Means Republicans Press Release, October 4



## What's Been Happening

1 — Joint Criticism of China's Trade Practices in Geneva — 1**[In One Sentence]**

- The U.S. and other World Trade Organization (WTO) members criticized China for failing to address “fundamental concerns” with the country’s trade regime.
- The U.S. and EU called for WTO reform and new rules to discipline China’s trade practices.
- China said it is committed to trade liberalization and has been abiding by WTO rules.

**[Mark the Essentials]**

- At China’s WTO trade policy review, the U.S., EU, Japan, Canada, Australia, South Korea, and (on some issues) India criticized Beijing’s lack of transparency, industrial subsidies, intellectual property framework, and state-owned enterprises.
- The U.S. and EU have both argued that current WTO rules are insufficient to address China’s trade and market distorting practices.
- The U.S., EU and Japan have proposed changing the Agreement on Subsidies and Countervailing Measures (ASCM) to address industrial subsidies.

**[Keeping an Eye on...]**

- The Biden administration’s efforts to re-couple with its allies and partners in Europe and the Asia-Pacific have begun to show positive results. The joint criticism of China’s state-run policies and practices, its alleged abuse of special treatment from self-designating as a developing country, as well as its lack of transparency in self-declaring its subsidies is an expression of this newfound (or, rather, the resumption of) solidarity. That being said, China is not in legal violation of these WTO obligations. If its western partners wish to impose new, negotiated disciplines on China’s industrial subsidies practices, they must be mindful of offering something in return. The WTO negotiation framework is not a donor conference, after all. To get something, one has to give something in return too—however asymmetric the exchange might be. Meanwhile, the U.S., the EU, and Japan also have trade-distorting agricultural subsidies that are subject to other countries’ criticism at the WTO.

**[Expanded Reading]**

- [WTO members blast China during 20th anniversary trade policy review](#), *Politico*, October 21

- [Statement by David Bisbee, Chargé d’Affaires, a.i., on the Trade Policy Review of the People’s Republic of China](#), Office of the United States Trade Representative, October 20
- [EU Statement at the 8th Trade Policy Review of China, 20 October 2021](#), Permanent Mission of the European Union to the World Trade Organization, October 20

## 2 — A Divided WTO — 2

### [In One Sentence]

- World Trade Organization (WTO) members remain divided on key issues that are up for resolution at the upcoming 12th ministerial conference (MC12).
- U.S. Trade Representative (USTR) Katherine Tai said the WTO’s dispute settlement system cannot be fixed without a comprehensive reform and revitalization of WTO’s negotiating function.
- G20 trade ministers reaffirmed their commitment to a “necessary” reform of the WTO.

### [Mark the Essentials]

- Despite a shared commitment to successful outcomes at MC12, no agreement has been reached on pressing issues on the table, which range from fisheries subsidies and pandemic response to agriculture and e-commerce.
- Noting that the WTO must respond to “reality” and “global developments,” Tai said a functioning dispute settlement system should motivate members to negotiate new rules.
- G20 trade ministers noted that a “well-functioning” WTO dispute settlement system “should contribute to providing security and predictability to the multilateral trading system.”

### [Keeping an Eye on...]

- Reaching an agreement on the WTO’s pandemic response as well as concluding the long-drawn out negotiation on fisheries subsidies, including eliminating subsidies that contribute to IUU fishing, appears to be increasingly beyond the reach of parties at this late hour going into MC12. This is a testament to the poor state of the WTO’s negotiating function. By linking the revival of the organization’s dispute settlement function to the revitalization of its negotiating function, USTR Tai has virtually ensured that the WTO’s dispute settlement-related Appellate Body will remain consigned to the long grass for the foreseeable future. It is not coincidental that a WTO panel is due to rule—most likely, unfavorably—later this winter on the U.S.’ Section 232 steel tariffs, which will in turn add to Beijing’s gripe that Washington’s dispute settlement-related grievances and criticisms are more opportunistic than truly solutions-oriented.

### [Expanded Reading]

- [WTO chief urges resolution on distortive agriculture subsidies](#), *France 24*, October 15
- [Ambassador Katherine Tai’s Remarks As Prepared for Delivery on the World Trade Organization](#), Office of the United States Trade Representative, October 14
- [U.S. Says It Supports Vaccine Production Waiver, But All WTO Member States Must Agree](#), *Newsweek*, October 14
- [G20 Ministerial Statement on Trade and Investment](#), G20 Trade and Investment Ministerial Meeting, October 12
- [U.N. chief urges world leaders to clinch WTO fisheries deal, document shows](#), *Reuters*, October 11 [Paywall]

### 3 — More Actions Addressing Supply Chain Security — 3

#### [In One Sentence]

- The Energy Department will issue a report of its solar supply chain review this fall, ahead of the administration's original February deadline.
- The White House said that the U.S. should increase investing in countries rich in critical minerals to challenge China's dominance in the industry.
- The Biden administration hopes to create export opportunities for U.S. clean energy technologies by investing in the infrastructure of developing countries.

#### [Mark the Essentials]

- Clean energy industry representatives have called for an acceleration of the solar supply chain review, noting that uncertainties around solar-related trade policy and supply chain bottlenecks are having a significantly negative impact.
- The Biden administration is looking at providing developing countries with capital to invest in mining as well as in processing facilities of multiple key critical minerals, "particularly for the electric vehicle battery space."
- When advocating for G7's "Build Back Better World," White House National Economic Council Director Brian Deese marked the need to expand into foreign markets with clean energy technologies such as those related to electric vehicles, solar, and wind.

#### [Keeping an Eye on...]

- The Biden administration has maintained a brisk pace on its supply chain reviews. After completing four 100-day supply chain reviews, its attention has turned to the 1-year sectoral supply chain assessments, with the solar chain assessment at the front of this queue. This is unsurprising, given that the solar supply chain has been in the crosshairs of the administration's interest—both, because of its emphasis on clean energy as well as the unsavoury reality that much of this supply chain runs frontally through China's Xinjiang region. On a similar note, the Biden administration is keen to address critical mineral supplies to reduce its dependency on China. Its 100-day supply chain review of large capacity batteries, issued earlier this June, was eye-opening in terms of revealing the extent to which China maintains a lock over this critical sub-sector as well as some of the key mineral inputs that are critical to upstream processing. The U.S., understandably, prefers that greater diversification set-in, including by assisting mineral-rich developing countries, so as to enhance the resilience of these critical, clean energy-related supply chains and technologies.

#### [Expanded Reading]

- [Launch | The Mosaic Approach: A Critical Minerals Supply Chain Report](#), Event by the Wilson Center, October 18
- [Heeding industry calls, DOE hastens solar supply chain review](#), *Inside U.S. Trade*, October 15 [Paywall]
- [Brian Deese on the vision behind the G7's Build Back Better World Initiative](#), Event by the Peterson Institute for International Economics, October 7



### [In One Sentence]

- Senator Mark Warner said that Congress should quickly pass provisions not only on 5G infrastructure but also on funding for the *Creating Helpful Incentives to Produce Semiconductor for America Act* (CHIPS Act) separately from the *U.S. Innovation and Competition Act* (USICA).
- A recently introduced House bill calls for the establishment of an interagency task force on China's "coercive economic measures."

### [Mark the Essentials]

- Urged by Republican Senator Bill Cassidy, U.S. Customs and Border Protection (CBP) Commissioner nominee Chris Magnus committed to tackling forced labor across the global supply chain.
- 19 Democrats in the Ways & Means Committee said that labor protection should be a top U.S. priority at the World Trade Organization's upcoming 12th ministerial conference.
- 13 Republican lawmakers urged the U.S. Trade Representative to maintain strong relations with Latin American countries, warning against "heightened Chinese economic engagement" and resulting influence in the region.

### [Keeping an Eye on...]

- Lawmakers continue to champion legislation designed to empower the United States' geo-technological rivalry with China. However, instead of holistic, all-encompassing strategic legislation, one recent trend is the increase in more specialized bills being introduced or advocated to address issue-specific areas where the U.S. needs to strengthen its competitive power vis-a-vis China. Another trend is to strip out and thereafter attach the most critical bits of legislation to unrelated but 'must-pass' bills, such as the *National Defense Authorization Act* (NDAA), which authorizes and details the annual appropriations of the U.S. Defense Department. Resorting to the latter is testament to divisions across the aisle and between the two chambers on the specifics of China-related legislation, even as there is an overarching consensus that Congress must deliver on the United States' geostrategic and geo-technological rivalry with China.

### [Expanded Reading]

- [Hearing to Consider the Nomination of Chris Magnus, of Arizona, to be Commissioner of U.S. Customs and Border Protection](#), United States Senate Committee on Finance, October 19
- [Promoting American Innovation and Competitiveness: The Role of Infrastructure, R&D Investment, and Industrial Policy](#), Event by Aspen Economic Strategy Group, October 18
- [Reps. Bera and Wagner Introduce Bipartisan Legislation to Counter Beijing's Economic Coercion](#), U.S. Representative Ami Bera, M.D. Press Release, October 15
- [H.R.5580 - Countering China Economic Coercion Act](#), Congress.gov
- [Rep. Crawford Alerts USTR of Chinese Influence in Latin America](#), U.S. Congressman Rick Crawford Press Release, October 13
- [Chairman Blumenauer Leads Colleagues in Encouraging Biden Administration to Continue to Advocate for Worker Protections at Upcoming World Trade Organization Conference](#), U.S. Congressman Earl Blumenauer Press Release, October 12

## 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.



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- 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



## What's Been Happening

**1 — Long March Towards an Indo-Pacific Economic Framework — 1****[In One Sentence]**

- Commerce Secretary Gina Raimondo said that the U.S. will “likely” launch a “formal process” in early 2022 to develop an Indo-Pacific economic framework.
- At the Asia Pacific Economic Cooperation (APEC) leaders meeting, President Biden pledged to deepen U.S. engagement in the Indo-Pacific.
- The U.S. and South Korea said they would “initiate new approaches” to address emerging trade issues.
- The U.S. and Japan launched a “partnership on trade” to address digital trade and “third-country concerns.”

**[Mark the Essentials]**

- Contending that the new Indo-Pacific framework would in some ways be “more robust” than the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) agreement, Secretary Raimondo cited digital interoperability and technology standards as areas for cooperation.
- National Security Council Indo-Pacific Coordinator Kurt Campbell recently argued that the U.S.’ partnership with Asia-Pacific countries would take the form of “a series of mini-lateral and multilateral engagements” rather than through one “dominant” body.
- The U.S. and South Korea reaffirmed the “central role” of the Korea-U.S. Free Trade Agreement (KORUS FTA) in economic relations, hoping to deepen cooperation on supply chain challenges, emerging technologies, the digital ecosystem, and trade facilitation.
- The U.S. and Japan plan to hold periodic meetings, starting early 2022, to address bilateral trade issues of mutual concern and advance a “shared agenda of cooperation.”

**[Keeping an Eye on...]**

- Fleshing out an Indo-Pacific economic framework is, perhaps, the Biden administration’s most immediate and challenging economic and trade policy task, now that the U.S.-EU Trade and Technology Council (TTC) is alive and kicking. The creative element of the proposed Indo-Pacific framework is its combining of sector-specific as well as multi-sector engagement as well as mini-lateral and multilateral engagement to craft a region-wide liberalization and rules-setting strategy. Equally, the deficiency of the proposed framework is its combining of sector-specific as well as multi-sector engagement as well as mini-lateral and multilateral engagement to craft a region-wide liberalization and rules-setting strategy. The breadth—rather than depth—of ambition is the framework’s Achilles Heel. The hope is that, at the end of the day, difficult

reciprocal commitments will be exchanged that open markets and expand commerce. Two factors will define the success or failure of the Indo-Pacific economic framework: first, the positioning of China vis-à-vis the framework, given that almost every Indo-Pacific state has denser economic ties with Beijing than Washington and, second, the role of Congress in terms of approving the framework. More likely than not, an Indo-Pacific economic framework that is drawn up as an executive agreement and which does not require Congressional imprimatur will not be worth the paper it is written on.

### [Expanded Reading]

- [Joint Statement by the Trade Ministers of the United States of America and the Republic of Korea on the Occasion of the Sixth Meeting of the Joint Committee of the U.S.-Korea Free Trade Agreement](#), Office of the United States Trade Representative, November 19
- [Beyond AUKUS and the Quad: What's Next for the U.S. Indo-Pacific Strategy](#), Event by United States Institute of Peace, November 19
- [U.S. says new Indo-Pacific economic framework not typical trade deal](#), *Reuters*, November 18 [Paywall]
- [United States and Japan Announce The Formation Of The U.S.-Japan Partnership On Trade](#), Office of the United States Trade Representative, November 17

## 2 — Prospects of a Postponed MC12 — 2

### [In One Sentence]

- The World Trade Organization (WTO) announced that it will postpone the Twelfth Ministerial Conference (MC12) due to pandemic-related travel restrictions.
- The WTO negotiations on an IP waiver to proactively combat COVID-19 remain polarized.
- U.S. Trade Representative Katherine Tai previously called on WTO members to “speak candidly” about their “grievances and disappointments” at MC12.

### [Mark the Essentials]

- WTO Director-General Okonjo-Iweala urged delegations to “maintain the negotiating momentum” as members pledged to continue working on their differences on key issues.
- U.S. politicians and stakeholders have urged President Biden to “use leadership power” and increase diplomatic pressure to assert an IP waiver on COVID-19 vaccines.
- Tai contended that the proposed IP waiver is a “very powerful message” from developing countries that they seek pandemic relief.

### [Keeping an Eye on...]

- Many issues remain in a state of suspended animation after the postponement of MC12 due to concerns over the new COVID-19 variant. The entrenched division on issues such as the IP waiver reveals the deep gap between developing countries and developed countries at the WTO. The waiver, which would permit states to sidestep elements of the WTO Trade Related Aspects of Intellectual Property Rights (TRIPS) agreement, is championed by the former while the EU continues to oppose the waiver. For its part, the U.S. along with a few other developed countries would prefer to limit the waiver to vaccines only. A roughly similar developed v. developing country divide is evident too in the harmful fisheries subsidies negotiations, with large developing countries dragging their feet in this instance. Evidently, even a once-in-a-hundred-year pandemic is not sufficient to infuse a sense of common purpose in the multilateral trade arena.

### [Expanded Reading]

- [U.S. trade chief to keep pushing on vaccine IP, WTO reform after meeting delay](#), *Reuters*, November 27  
[Paywall]
- [General Council decides to postpone MC12 indefinitely](#), World Trade Organization, November 26
- [Biden calls for intellectual property waivers on COVID vaccines](#), *Al Jazeera*, November 26
- [Talks to waive patents on Covid vaccines are 'stuck', WTO head warns](#), *Financial Times*, November 25  
[Paywall]
- [Senate Democrats call on Biden to push for COVID-19 vaccine patent waivers at WTO](#), *The Hill*, November 23
- [Prospects of Intellectual-Property Waiver on Covid-19 Vaccines Fade](#), *Wall Street Journal*, November 18  
[Paywall]

## 3 — Post Biden-Xi Summit, Little Changed in Trade and Tech — 3

### [In One Sentence]

- President Biden met virtually with President Xi to discuss the “complex” U.S.-China relationship and the importance of managing competition responsibly.
- National Security Council Indo-Pacific Coordinator Kurt Campbell noted that China’s application to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) agreement is “deadly serious.”
- The Bureau of Industry and Security (BIS) added eight China-based technology companies to the Entity List.
- The Commerce Department has rejected an anonymous petition to investigate certain Southeast Asian companies for alleged circumvention of trade remedies against Chinese solar products.
- The U.S. Court of International Trade reversed the Trump administration’s Section 201 actions on solar products, ordering the tariff rate to be lowered and tariff exclusions to be reinstated.

### [Mark the Essentials]

- Presidents Biden and Xi discussed bilateral trade and economic ties as well as the Phase One commitments.
- China has been “assertively” responding to the Biden administration’s “strategic movements” such as Build Back Better investments, vaccine engagement and Quad, as per Indo-Pacific Coordinator, Kurt Campbell.
- BIS said that the companies were sanctioned to prevent Beijing from using U.S. emerging technologies for military-related quantum computing efforts, as part of its military-civil fusion strategy.
- An anonymous industry group had asked Commerce to investigate and impose tariffs on companies allegedly circumventing AD/CVD remedies against Chinese solar products, leading to strong opposition by some industry stakeholders.
- U.S. solar industry had previously disagreed over whether the Section 201 measures should be extended.

### [Keeping an Eye on...]

- The U.S. and China have hesitatingly begun to talk to each other on the trade and economic policy front, with a view to establish a *modus vivendi* for engagement going forward. For the most part though, the two sides continue to talk past each other on trade policy than *to* each other. China’s CPTPP application is an instructive case in point. Of course, it is a “deadly serious” undertaking. Didn’t China complete negotiations

with the Europeans on a high-standard investment agreement, which by the way has almost identical provisions in its industrial subsidies chapter as the EU-Japan agreement of 2019? Indeed, if the Biden administration was interested in harvesting these very gains, all it has to do is thumb through the Phase Two provisions of the ‘almost-completed’ negotiations that the Trump administration had engaged in, as part of the U.S.-China Ninety-Day negotiations in Spring 2019. This evidently seems to be either too hard or too politically impolitic for the Biden team at this time. Regardless, a question that the Biden administration will have to answer at the end of the day is whether the inclusion of China into the global trade and economic system is more advantageous than disadvantageous—or vice versa. No part of the answer to this question requires the administration to soften its approach on technology controls, particularly with regard to entities that have linkages to the People’s Liberation Army (PLA). But it must answer this question if the administration wishes its Indo-Pacific economic framework to be taken seriously.

### [Expanded Reading]

- [12 more Chinese companies are placed on US export blacklist](#), *South China Morning Post*, November 25 [Paywall]
- [Addressing the ‘Global Challenge’ Posed by China](#), United States Institute for Peace, November 22
- [Readout of President Biden’s Virtual Meeting with President Xi Jinping of the People’s Republic of China](#), White House, November 16
- [Xi calls for sound, steady China-U.S. relationship](#), *Xinhua*, November 16
- [U.S. Trade Court Reinstates Bifacial Tariff Exclusion, Returns Section 201 Tariff Rate to 15%](#), Solar Energy Industries Association, November 16
- [Commerce Rejects A-SMACC Solar Panel Circumvention Petition](#), *National Law Review*, November 11

## On the Hill



### [Legislative Development]

- House Speaker Nancy Pelosi and Senate Majority Leader Chuck Schumer agreed to move the United States Innovation and Competition Act (USICA) to conference and “immediately” begin reconciling differences.
- Citing the need to “re-shore” semiconductor manufacturing, governors joined the Commerce Department in the call for congressional funding of the Creating Helpful Incentives to Produce Semiconductors for America Act (CHIPS Act).
- In a report to Congress, the U.S.-China Economic and Security Commission called for increased scrutiny of U.S.-China financial ties and a mechanism to review outbound investment.

### [Hearings and Statements]

- A bipartisan group of 20 House lawmakers urged Biden to pursue a digital trade agreement in the Indo-Pacific region, arguing that such a deal would “expand American economic leadership” and “concretely demonstrate U.S. commitment to a free and open Indo-Pacific.”
- All Republican members of the Senate Finance Committee have also urged Biden to negotiate an Indo-Pacific digital trade agreement to counter China.

- Nine lawmakers from the “Friends of Australia Caucus” called on Washington to develop a U.S.-Australia digital trade agreement to counter China.

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

- Congress remains active on U.S.-China trade, investment and competition issues, especially with the year-end deadline looming to pass a number of budget-related bills. The passage of the \$1.2 trillion bipartisan infrastructure bill in November, which supports investments in key high tech areas, was an important political victory for the White House. The possible passage of USICA on a party-line vote will provide an equally important competitiveness-related boost to the U.S. economy in the 21st century race to capture the commanding heights of the new economy. That being said, one critical component to fund America’s tech competition with China, the funding for various CHIPS Act programs, is still missing from legislation even at this late hour - attesting to the divided nature of political and policy priorities on the Hill even on China competition-related issues. Perhaps, the CHIPS Act funding along with an outbound investment review mechanism will get tacked onto the FY2022 National Defense Authorization Act but this remains to be seen.

### **[Expanded Reading]**

- [Trade Subcommittee Hearing on Supporting U.S. Workers, Businesses, and the Environment in the Face of Unfair Chinese Trade Practices](#), Ways and Means Committee, December 2
- [Commerce secretary says House needs to pass CHIPS Act immediately to ease semiconductor shortage](#), CNBC, November 29
- [Reps. Bera and Chabot Lead Bipartisan Members in Urging USTR to Pursue Digital Trade Agreement with Partners in Indo-Pacific](#), Representative Ami Bera Press Release, November 22
- [Pelosi, Schumer Joint Statement on Bicameral Agreement to Conference the Senate-Passed United States Innovation and Competition Act](#), Speaker of the House Nancy Pelosi Press Release, November 17
- [2021 Report to Congress](#), U.S.-China Economic and Security Review Commission, November 17
- [Gallagher, Courtney Lead Friends of Australia Caucus Letter Pressing for Digital Trade Agreement Between the U.S. and Australia](#), Congressman Mike Gallagher Press Release, November 17
- [Governor Wolf, Bipartisan Governors Urge Congress to Pass CHIPS Act to Create American Jobs, Boost Semiconductor Production](#), Governor Tom Wolf Press Release, November 10
- [Senators Write To Biden Calling For Increased Digital Trade In The Indo-Pacific](#), Senator Chuck Grassley Press Release, November 8

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## 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 Inflare 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

The Institute for China-America Studies (ICAS) is an independent think tank in Washington D.C. ICAS focuses on the evolving dynamics in the U.S.-China relationship to promote greater collaboration and mutual understanding through sincere exchanges of fresh ideas, objective policy-oriented research, and fair assessments of this critical bilateral relationship.

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