

What's Been Happening

1 — America COMPETES Act Still in the Wringer — 1

[In One Sentence]

- The U.S. House of Representatives passed the 2,900 page America COMPETES Act as a parallel bill to the Senate's U.S. Innovation and Competition Act (USICA).
- Lawmakers expect to start reconciling the two bills soon in a House-Senate conferencing process.
- The America COMPETES Act aims to invest in the American industrial base and in research and development, including through specialized funding for strategic sectors such as the semiconductor industry.
- Additional funding is provided to strengthen supply chain security by preventing shortages of critical goods and reshoring manufacturing back to the United States.
- The Act addresses a broad range of issues related to China, including but not limited to economic independence from China, human rights concerns, and regional security and economic policies.
- House members proposed more than 600 changes to the initial draft and over 200 amendments were officially put to the House floor for discussion.
- House Republicans criticized the bill for not adequately confronting China, while the Chamber of Commerce has opposed the bill for its restrictions on trade and outbound investment.

[Mark the Essentials]

- Both the America COMPETES Act and USICA aim to enhance U.S. competitiveness by investing in advanced technologies, improving supply chain resiliency, and strengthening foreign policy efforts to counter China, but they differ in their trade provisions. The America COMPETES Act also has a markedly heavier emphasis on climate and sustainability initiatives compared to the Senate's USICA.
- Similar to USICA, the America COMPETES Act authorizes \$52 billion funding for the Creating Helpful Incentives to Produce Semiconductors in America Act (CHIPS Act) and \$1.5 billion for the Public Wireless Supply Chain Innovation Fund.
- The America COMPETES Act proposes to establish an outbound investment review mechanism, reauthorize Trade Adjustment Assistance, tighten trade restrictions by depriving Chinese goods of *de minimis* tariff benefits, and reauthorize the Generalized System of Preferences program and the Miscellaneous Tariff Bill.
- The COMPETES Act also seeks to reduce economic and supply chain dependence on China, develop alternatives to China's Belt and Road Initiative, counter Chinese censorship and misinformation, and address human rights concerns through sanctions and other programs.

- Amendments have focused on supply chain issues, changes to the CHIPS Act, and provisions that directly address China, but notably exclude discussion of the exclusions process for Section 301 tariffs.
- House Republicans are critical of the partisan drafting process, arguing that the America COMPETES Act is loaded with progressive-leaning political pork and also creates loopholes that can be exploited by China.
- According to the U.S. Chamber of Commerce, the bill's trade and investment restrictions "significantly" raise costs for businesses, add to supply chain bottlenecks, and imposes a *de facto* tax on U.S. consumers.

[Keeping an Eye On...]

- On Friday, February 4, the House of Representatives passed the America COMPETES Act. While some advertise this to be positive news, its passing should not be regarded so positively—at least yet. Its provisions are not lining up as well as they could with the Senate's USICA—its companion bill—which was passed in June 2021. USICA's centerpiece component was the Endless Frontier Act that would create a new technology directorate within the National Science Foundation. Rather than fold the "Endless Frontier Act" provisions into the America COMPETES bill, the House chose to go with its own "National Science Foundation for the Future Act." Similarly, when the Senate passed USICA, its centerpiece foreign policy component was the "Strategic Competition Act." Rather than fold the "Strategic Competition Act" provisions into the America COMPETES bill, the House chose to go with its own "Ensuring American Global Leadership and Engagement (EAGLE) Act." As if the America COMPETES Act's cup hadn't runneth over with partisan House priorities, the House leadership also chose to sprinkle the legislation with numerous 'worker-centered' notes that will do little to boost competitiveness but will surely gladden protectionist constituencies in the Democratic Party and enrage Republicans. Clearly, House and Senate conferees have a difficult job ahead of them as they get down to reconciling their divides across the aisle and between chambers on how to deal with China and reinvigorate U.S. innovation. It will not be easy, especially since USICA passed with a large bipartisan majority while the COMPETES Act was passed on party lines. For the conference bill to clear both chambers, it will need at least 10 Senate Republicans to vote 'yea'—which, in turn, means the House leadership will first have to say 'nay' to some of its loyalists and excise the partisan political pork contained in the COMPETES Act during the conference process. On a more optimistic note, the CHIPS Act funding allocations—a point of agreement across USICA and the COMPETES Act—will finally become settled law if the conference process succeeds and turbocharges an already turbocharged U.S. semiconductor sector.

[Expanded Reading]

- [Pascrell, Blumenauer Call Out Tesla Engagement in China's Genocide Region](#), Rep. Bill Pascrell, January 20, 2022
- [Text of H.R. 2421, The America COMPETES Act of 2022](#), U.S. House of Representatives, January 25, 2022
- [Pelosi Statement on Introduction of America COMPETES Act of 2022](#), Rep. Nancy Pelosi (Speaker of the House), January 25, 2022
- [Results from Semiconductor Supply Chain Request for Information](#), U.S. Department of Commerce, January 25, 2022
- [Rep. Richard Neal, Democrats unveil America Competes Act to boost U.S. trade competitiveness with China](#), Rep. Richard Neal (Chairman of the Ways and Means Committee), January 26, 2022
- [Foreign Censorship Policies and Practices Affecting U.S. Businesses](#), U.S. International Trade Commission, January 27, 2022
- [Ranking Member Cole Hearing Remarks on H.R. 3485, H.R. 4445 and H.R. 4521](#), Rep. Tom Cole (Ranking Republican Member of the Rules Committee), February 1, 2022
- [McCarthy Sounds the Alarm: Democrats' Legislation Concedes America to China](#), Rep. Kevin McCarthy

(Minority Leader), February 2, 2022

- [U.S. Chamber Letter on H.R. 4521, the "America COMPETES Act,"](#) U.S. Chamber of Commerce, February 2, 2022
- [Hoyer Statement on House Passage of the America COMPETES Act of 2022,](#) Rep. Steny Hoyer (Majority Leader), February 4, 2022

2 — The IPEF’s Selectively Exclusionary Approach to Multilateralism— 2

[In One Sentence]

- The Biden Administration plans to release a comprehensive overview of the Indo-Pacific Economic Framework (IPEF) by March 31.
- The Administration has discussed the IPEF with trade officials from Japan, South Korea, Singapore, Malaysia, Indonesia, Australia, and New Zealand as well as with various non-governmental stakeholders, especially from the digital sector.
- Seven areas have been identified as potential “modules” of the Framework: worker-centered trade facilitation, digital economy, supply chain resiliency, infrastructure, environmental sustainability, export controls and investment screening, and anti-corruption.
- Some target countries have welcomed the ‘menu approach’ of the IPEF while other American politicians and business representatives have urged the administration to ensure that the framework is truly binding and multilateral.

[Mark the Essentials]

- The Biden administration has conceptualized the IPEF as a two-part structure: a broad framework of general commitments, and discrete issue-specific “modules” therein that countries can participate in selectively.
- U.S. trade and commerce officials plan to increase their presence and engagements in the region to brief counterparts on the IPEF, while leaving open the possibility for Indonesia and India to participate in the framework.
- The IPEF will not contain new U.S. market-access commitments, but the administration says the framework’s trade module will be a “very high-ambition” one, binding upon parties and only open to parties committed to the overall Indo-Pacific framework.
- According to U.S. officials, the IPEF will involve “high-standard rules” to increase interoperability and competitiveness among the parties, while the trade module will address issues such as labor rights, competition, and data localization.
- U.S. lawmakers and businesses have urged the Biden administration to develop an economic agenda in the region to counter China.

[Keeping an Eye On...]

- As intriguing hints and spicy details leak into the public domain regarding the Biden Administration’s vaunted Indo-Pacific Economic Framework, an unsavory truth also appears to be coming into focus: the administration has a lot of positive things to say regarding standards-setting and regional trade liberalization but thus far possesses little or no initiative to actually practice the trade liberalization that it preaches. That the IPEF will not contain new U.S. market-access commitments and, more fundamentally, will not require to be tested on the floor of the U.S. Congress indicates to allies and adversaries alike that this administration is not up to the task of fighting the bruising political battles at home to foster trade liberalization abroad. It is all but certain now that the Comprehensive and Progressive Agreement for Trans-Pacific Partnership

(CPTPP) will remain undisturbed on the sidelines—so far as this administration is concerned. But concerned the administration should be. A strategy of region-wide economic leadership and simple rules-setting may just as cheaply be dispensed with by allies and adversaries alike—in turn, requiring a far more politically expensive effort in the future to recoup region-wide economic policy leadership.

[Expanded Reading]

- [Navigating Tumultuous Times in the Indo-Pacific](#), National Bureau of Asian Research, January 19, 2022
- [Restoring Trust in Global Trade and Supply Chains](#), World Economic Forum, January 20, 2022
- [Readout of President Biden’s Meeting with Prime Minister Kishida of Japan](#), The White House, January 21, 2022
- [Japan’s role in selling Biden’s Indo-Pacific agenda](#), *Politico*, January 24, 2022
- [USTR Announces the Development of a Focused Trade Strategy to Combat Forced Labor](#), Office of the USTR, January 25, 2022
- [Filling In the Indo-Pacific Economic Framework](#), Center for Strategic and International Studies, January 26, 2022
- [2022 Washington International Trade Conference](#), Washington International Trade Association, January 31, 2022
- [USG Talking Points for Foreign Partners on Indo-Pacific Economic Framework](#), White House Memo, Fall, 2021
- [Indo-Pacific Economic Framework Concept Note](#), White House Concept Note, Fall, 2021

3 — Tariffs Remain at the Top of Biden’s Trade Tool Kit— 3

[In One Sentence]

- The Biden Administration announced a four-year extension of the Trump-era Section 201 solar safeguard tariffs.
- Deputy U.S. Trade Representative Sarah Bianchi said China “clearly” did not meet up to its Phase One purchase commitments and that “ongoing” conversations with China have been unfruitful.
- U.S. trade officials called on China to take “concrete action” to make up for gaps in fulfillment of its Phase One purchase commitments.

[Mark the Essentials]

- In a nod to the importance of imports to America’s downstream producers, the extended Section 201 safeguard order doubles the remedy’s TRQ (tariff-rate quota) on solar cell imports.
- The Court of International Trade questioned whether former President Trump had the authority to increase Section 301 tariffs on Chinese imports, while the Biden government argues that it should have the ability to address increased harm resulting from China’s retaliatory actions.
- USTR officials say they have been engaging “robustly” with their Chinese counterparts on the purchase commitments as well as larger concerns related to China’s industrial policies.
- USTR is looking to all available tools to hold China accountable to its commitments and other trade practices, and U.S. trade officials furthermore have called for the development of “new tools as needed.”
- Admitting the lack of leverage to enforce the purchase commitments, U.S. trade officials say they will continue to press China on its non-market trade and industrial policy practices.

[Keeping an Eye On...]

- Unfortunately, the supposedly ‘robust’ engagement of USTR officials with their Chinese counterparts is one of the best kept secrets in Washington, D.C. The outright failure of China to hit its Phase One purchase commitment targets is one of the worst kept secrets in Washington, D.C. Thus, this lamentable U.S.-China exercise in ‘managed trade’ does not reflect well on either side. If an observer understands the current situation correctly, the Biden administration wishes to maintain—and even impose new—tariffs on China, but reconnect with China regarding exports. Most experts would call this trade mercantilism. Also, simultaneously, the administration wishes to decouple in the advanced manufacturing and technology-intensive sectors from China. As for Beijing, even if one sets aside the COVID recession, it was evident from the beginning that, even in the best of economic circumstances, China would fail to meet its targets. It might have gotten a lot closer to meeting its targets without a pandemic but it would still have missed the mark. This, in turn, begs the question: Why append your signature on an agreement which at the time of its signing you know clearly well that you will not be able to fulfill? Intergovernmental agreements, be it the Phase One targets or for the matter the China-Australia Free Trade Agreement, are serious undertakings and need to be treated as such. They are not instruments that can be nullified at one’s convenience, no matter how sincere the underlying effort to fulfill them might—or might not—be. Hopefully, the failure to attain the Phase One agreement’s purchase commitment targets will also usher in an end of that age when massive Boeing and soybeans purchase orders were proffered by China and utilized as a glue to bind Washington to Beijing. As the latter is probably best aware, the glue no longer holds. And Beijing would be better off by doing two things: letting global market forces dictate outcomes in these goods markets and transforming its domestic industrial structure to a more market-oriented and pro-competition framework.

[Expanded Reading]

- [Joe Biden says he won’t lift tariffs on Chinese imports since Beijing hasn’t abided by phase one trade deal](#), *South China Morning Post*, January 20, 2022 [Paywall]
- [Portman, Brown, Rubio, Casey, Braun, Marshall Urge President Biden to Extend Safeguard Tariffs on Foreign Solar Panels](#), Office of Rep. Rob Portman, January 20, 2022
- [Rosen Leads Letter to President Biden in Opposition to Extending Job-Killing Solar Tariffs](#), Office of Rep. Jacky Rosen, January 20, 2022
- [Walorski, LaHood Lead Bipartisan Call to Deliver Tariff Relief to U.S. Manufacturers](#), Reps. Jackie Walorski and Darin LaHood (Ways and Means Committee), January 20, 2022
- [Chips, batteries and other technologies: A US-EU partnership is crucial](#), *The Hill*, January 25, 2022
- [Iowa Senators Urge Biden To Forcefully Engage On Trade Issues](#), Sens. Chuck Grassley and Joni Ernst, January 25, 2022
- [Exclusive: U.S. calls for 'concrete action' from China on trade deal](#), *Reuters*, February 7, 2022 [Paywall]