TnT

中美研究中心 ICAS
Institute for China-America Studies

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 is 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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ICAS TRADE N TECH DISPATCH

January 13, 2022

Volume 2, Issue 1

What's Been Happening

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

[**In One Sentence**]

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

[**Mark the Essentials**]

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

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

- U.S.-China trade engagement in 2021 was like no other in the 30-plus year history of intensive U.S.-China trade and economic policy dealings. Apart from a few formulaic conversations, there was no high-level policy engagement between the two sides. Commercial ties have been the bulwark of the bilateral relationship and in any given year over the past three decades, there has typically been forthright engagement on trade and economic policy issues between the two sides. But not in 2021. The Biden administration was slow to get its China trade policy strategy in place and continues to remain reticent on the terms of trade and tech policy engagement with China in 2022. The administration's policy on instituting technology controls *vis-a-vis* China continued apace though, thereby ensuring that the balance sheet of U.S.-China trade and tech engagement in 2021 was a net negative. About the only positive element in 2021 was the expiry of the market purchases element of the Phase One Trade Agreement on December 31—an exercise of 'managed trade' that was a slap in the face of free and fair trade practice. Hopefully, this element of the Phase One Trade Agreement will not be replicated in any form or shape again. That said, it is hard to foresee a positive agenda of engagement emanating from Washington on China trade policy, including on the tariffs front, until it rolls out its Indo-Pacific Economic Framework later in the year. Formulating a concrete framework of engagement and firming up ties with allies and partners across a range of economic policy areas prior to sorting through issues with Beijing appears to be the Biden Administration's plan of action on China, so far.

[**Expanded Reading**]

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

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

[**In One Sentence**]

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

[**Mark the Essentials**]

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

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

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

[**Expanded Reading**]

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

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

[**In One Sentence**]

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

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

[**Mark the Essentials**]

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

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

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

[**Expanded Reading**]

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

TnT ICAS TRADE N TECH DISPATCH

January 28, 2022

Volume 2, Issue 2

What's Been Happening

1 —In the Void of a China Trade Strategy — 1

[**In One Sentence**]

- Biden said he's "uncertain" whether he will be in a position to ease tariffs on China soon, stressing the need to first make sure that China meets its commitments under the Phase One deal.
- USTR Katherine Tai is planning to talk with China and ensure that China makes up for the "deficit" in its Phase-One purchase commitments "over the course of the next several years."
- Criticizing the Biden administration for a lack of action, the U.S. Chamber of Commerce called for the release of a cohesive strategy on trade to compete with China.
- The National Foreign Trade Council suggested that the Biden administration start pursuing "concrete deliverables" for U.S. businesses in trade such as new-market access opportunities and global standards for emerging technologies.

[**Mark the Essentials**]

- The Department of Agriculture found that retaliatory tariffs from China reduced U.S. agricultural exports by $25.7 billion over the 2018-2019 period, though the Phase One deal did lead to an "impressive" but partial rebound of agricultural exports.
- Criticizing the Biden administration for continuing the Trump-era tariffs, a new *Wall Street Journal* op-ed piece contends that such tariffs increased prices for household goods and fueled inflation.
- In contrast to the conclusions of this op-ed, the United Steelworkers Union argued that the lifting of the Section 301 and Section 232 tariffs would be an "insult" to workers and employers who rely on a level playing field against non-market practices.
- U.S. importers are continuing to challenge the legality of the Trump-era Section 301 tariffs in court.

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

- The Biden administration's "build back better" mantra clearly does not seem to extend to the U.S.-China trade relationship, at least thus far. The administration remains tardy in putting out a specific China trade engagement strategy despite multiple calls from both Capitol Hill and the business community. While the majority of the business community has called for the removal of or at least partial exclusions from the Section 301 tariffs, the administration has thus far shown little interest in considering such an option. At this point, the Section 301 tariffs should no longer be viewed exclusively as 'Trump-era tariffs.' The sad reality is that these tariffs appear to be trapped in a bog of political jockeying and economic tensions. Therefore, without a proper resumption of trade talks with China, few positive deliverables can be expected on this front in 2022. It is understandable that the administration would prefer to work in concert with allies and partners first. This, however, seems to be the *only* plan of action so far, raising concerns that its China trade policy strategy essentially amounts to engaging everyone except the Chinese directly. And the unstated fear is that when the administration does, after its exertions, roll out the Indo-Pacific Economic Framework to outcompete China, it will be viewed as a damp squib by partners and adversaries alike—much like USTR Tai's long-awaited China trade policy speech last October.

[**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]
- U.S. lawmakers urge USTR to expand tariff exclusions on Chinese goods, *Reuters*, January 20, 2022 [Paywall]
- Pharmax Brings Tariff Challenge to Court of International Trade, *Law Street*, January 20, 2022 [Paywall]
- U.S. Chamber calls for new U.S. trade deals, China strategy, *Financial Post*, January 10, 2022 [Paywall]
- U.S. steps up trade pressure in Europe in response to Russia, China, *Politico*, January 10, 2022
- Joe Biden's Inflationary Trade Policy, *Wall Street Journal*, January 4, 2022 [Paywall]

2 — The Visage of the Indo-Pacific Economic Framework— 2

[**In One Sentence**]

- U.S. Trade Representative Katherine Tai said that the Indo-Pacific Economic Framework (IPEF) bears similarities with the U.S.-EU Trade and Technology Council (TTC) in scope and in intent.
- Kurt Campbell, former Assistant Secretary of State for East Asian and Pacific Affairs under President Obama and currently Indo-Pacific Coordinator in the Biden White House, said that the U.S. needs to strengthen digital engagement and standard-setting efforts in the Indo-Pacific.
- USTR Tai met with South Korean trade officials to discuss the IPEF, following parallel discussions with Japan, New Zealand, Australia, Singapore and Malaysia.
- Commenting on the IPEF, the U.S. Chamber of Commerce said that a robust approach to trade in Asia is essential to ensure U.S. leadership and provide a "meaningful alternative to competition from China."

[**Mark the Essentials**]

- According to USTR Tai, the IPEF and the TTC both aim at building partnerships that focus on sustainability, resilience, inclusiveness and competitiveness.
- Having called China's application to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) "deadly serious," Campbell said that the U.S. must work "comprehensively" with allies on not just military advancements but also on technological progress in order to counter China.
- South Korea said its "basic stance" is to expand "regional economic cooperation" through the IPEF, while a Taiwanese official observed the IPEF is only "one component" of the administration's Indo-Pacific strategy.
- The U.S. Chamber of Commerce said that an Indo-Pacific digital agreement is fundamental for U.S. enterprises and should be "front and center" of the IPEF.

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

- The Biden administration has displayed a strong interest in drawing up an Indo-Pacific Economic Framework on lines that are similar to the U.S.-EU Trade and Technology Council's format and work program. Both frameworks are comprehensive. Both frameworks are forward-looking. Both aim to set global rule-making and standards in critical industries and sectors. And both aim to rally like-minded allies and partners to co-address challenges posed to global trade and investment by China. That being said, the successful launch of the TTC does not guarantee an equivalent success on the IPEF front. Not only is China the most important trading partner to almost every Indo-Pacific country but these countries are also tied intimately to China by way of regional value chains in ways that Europe simply isn't connected to China. Truth be told, almost every Indo-Pacific country, give or take one or two such as India, would prefer that the U.S. and China succeed in reestablishing a new and productive economic and trade *modus vivendi* that is fair and equitable to both sides, and beneficial to all. Their prosperity resides in a recoupled and successful relationship—not a decoupled or even selectively decoupled U.S.-China relationship. And if the IPEF is to serve as an exclusive alternative to the other existing regional economic initiatives which China has either spearheaded or applied to join, it will defeat the vision of inclusiveness that these countries have long sought to embed in their region-wide economic practices. That said, one must await the substance and details of the IPEF before passing further judgment. The first tantalizing hints of a template featuring topic-specific modules has been placed in the public domain, and the technical details will be eagerly awaited by ally and adversary alike.

[**Expanded Reading**]

- Japan's role in selling Biden's Indo-Pacific agenda, *Politico*, January 24, 2022
- Taiwan wants to join Biden's Indo-Pacific economic framework, *Nikkei Asia*, January 20, 2022 [Paywall]
- Will South Korea Join the US Effort to Insulate Supply Chains From China?, *The Diplomat*, January 19, 2022 [Paywall]
- In vying for economic preeminence in Asia, openness is essential, Brookings Institution, January 14, 2022
- US and EU will work together to confront China in the aerospace industry, trade official says, *South China Morning Post*, January 13, 2022 [Paywall]
- US will increase economic engagement with Asian nations, White House official says, *South China Morning Post*, January 8, 2022 [Paywall]

3 — East Wind: When Transatlantic Cooperation Meets China— 3

[**In One Sentence**]

- The next meeting of the U.S.-EU Trade and Technology Council is slated to take place in Europe this May.
- Industry sources note that the U.S. and the European Union are aiming for low-hanging fruit and "early victories" at the next TTC meeting.
- The U.S. and the UK have launched talks to resolve their disputes over the Trump-era Section 232 steel and aluminum tariffs.
- EU trade officials are seeking to loop China into a plurilateral negotiation at the WTO on subsidy reform and government trade intervention.

[**Mark the Essentials**]

- The U.S. and the EU are currently negotiating a "Global Sustainable Steel Arrangement," which will discourage trade in high-carbon steel and aluminum that both sides say contribute to global overcapacity from other countries, such as (according to the White House) China.
- Noting their shared national security interests "as democratic market economies," the U.S. and the UK agreed to promote "high standards" to address market-distorting policies in the steel and aluminum industries.

- Business representatives point out that the U.S. and the EU have yet to overcome their differences over the EU Digital Markets Act, the EU Digital Services Act, and the U.S. "Buy America" policy.
- U.S. officials have named the TTC as one of the Biden administration's platforms to counter China while EU officials have stated that the EU did not want the TTC to simply devolve into an "anti-China exercise."

[Keeping an Eye On...]

- The Biden administration's push to re-engage its European allies and partners will be put to the test again in May when the second TTC meeting takes place. 'Early harvest' deliverables, such as facilitating effective and practical U.S. and EU export controls cooperation, will likely be on the table. On the other hand, grappling with more contentious topics, such as the EU Digital Markets Act and Digital Services Act as well as the proposed electric vehicle tax credits in the Build Back Better bill, will put the U.S.-EU trade, technology and digital policy honeymoon to the test. As the *Dispatch* has also noted on previous occasions, the two sides' less-than-congruent approaches on China will also test their relationship within the TTC. The EU seeks a trade and investment relationship with China that is grounded in fair, predictable and market-based practices. It much prefers that the EU-China relationship succeed on these terms. On the other hand, it is not as clear that this is the American interest or objective - although its willingness to engage China in a 'Phase Two' negotiation, if it was indeed willing, could clear the air significantly in this regard. One way or the other, the TTC will be worth following closely in 2022, and for reasons that reach beyond the two sides' immediate bilateral trade and investment frictions.

[Expanded Reading]

- Chips, batteries and other technologies: A US-EU partnership is crucial, *The Hill*, January 25, 2022
- Can the U.S.-EU Trade and Technology Council Counter China?, *The National Interest*, January 23, 2022 [Paywall]
- Will Europe Become a True Digital Power?, *The National Interest*, January 21, 2022 [Paywall]
- How the Transatlantic Relationship Has Evolved, One Year Into the Biden Administration, Carnegie Endowment for International Peace, January 20, 2022
- US, UK Begin Talks on Lifting Trump's Steel Tariffs, *U.S. News*, January 19, 2022
- U.S.-EU trade, technology body to meet in Europe in 2022 - Tai, *Reuters*, January 12, 2022 [Paywall]

On the Hill

[Legislative Development]

- House Representative Earl Blumenauer introduced a bill to bar low-value imports from non-market economies from *de minimis* tariff benefits.
- A recently introduced bipartisan bill aims to reduce U.S. reliance on China for rare-earths by creating a strategic reserve and having the USTR investigate "unfair" Chinese trade practices.
- Sree Ramaswamy, senior advisor to Commerce Secretary Raimondo, said the government was capable of establishing various programs to address specific gaps, such as in semiconductors and EV charging, but lacked a clearly defined overall strategy to cohesively implement investments in critical industries and critical supply chains.

- Ramaswamy called for a single decision-making mechanism to strategically coordinate various programs and investments in supply chain resilience and critical industries.

[**Hearings and Statements**]

- Bipartisan lawmakers urged the Biden administration to swiftly act on the Indo-Pacific Economic Framework (IPEF) as "competitors" continue to shape the rules of the digital economy in the Indo-Pacific.
- Senator Coon said that the IPEF can be a stepping stone to greater climate change cooperation and to a broader trade agreement in the region.
- House Ways & Means ranking member Brady called on the Biden administration to work for authorization of fresh Trade Promotion Authority as well as a "second-phase" deal with China.

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

- The push to decouple U.S.-China trade and technology ties continues unabated on Capitol Hill, for the most part. Lawmakers continue to push for newer and wider areas for decoupling, such as authorizing a new outbound investment review mechanism as well as creating a strategic reserve to reduce U.S. reliance on China for rare-earth materials. Lawmakers are also enjoying the rare opportunity to frame the contours of America's global competitiveness strategy for perhaps a generation, if not more. How they proceed with their conferencing work on the United States Innovation and Competition Act (USICA) and the America COMPETES Act will convey a great deal about their aspirations for America's continued dominance in the advanced manufacturing and digital sectors. Of course, most of this cannot come soon enough for U.S. business. But that being said, the Executive Branch deserves credit for its clear-headed and forward-looking thinking through of the coordination and implementation challenges ahead, given the huge sums—and stakes—involved and the inevitable bureaucratic challenges of putting the appropriated monies to their most productive uses.

[**Expanded Reading**]

- Strategic Importance of Digital Economic Engagement in the Indo-Pacific, Hearing in the House Foreign Affairs Committee, January 19, 2022
- Chairman Blumenauer Unveils New Legislation to Fix Import Loophole, Level Playing Field, and Boost Oversight, U.S. Congressman Earl Blumenauer Press Release, January 18, 2022
- H.R.6412 - Import Security and Fairness Act, 117th Congress (2021-2022)

- Cotton, Kelly Introduce Bill to End Reliance on China for Rare-Earth Elements, Senator for Arkansas Tom Cotton Press Release, January 14, 2022
- S.3530 - REEShore Act of 2022
- Transcript: The Early 202: Rep. Kevin Brady (R-Tex.), *Washington Post*, January 12
- What a National Strategic-Industry Policy Should Look Like, Event by the Information Technology and Innovation Foundation (ITIF), January 11, 2022

TnT ICAS TRADE N TECH DISPATCH

February 10, 2022

Volume 2, Issue 3

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**]

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- 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.

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- 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**]

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- 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]

ICAS TRADE N TECH DISPATCH

February 28, 2022

Volume 2, Issue 4

What's Been Happening

1 —White House Seeks Domestic Tools to Reinforce Trade Strategy— 1

[**In One Sentence**]

- The Office of the U.S. Trade Representative (USTR) told Congress that new strategies are needed to address China's harmful trade practices.
- The Pentagon called for a "whole-of-government response" to counter the impacts of China's government subsidy programs in the microelectronic manufacturing sector.
- The White House considers the Indo-Pacific Economic Framework (IPEF) to be a central pillar of its Indo-Pacific Strategy to counter China.
- The Biden administration is looking beyond traditional free trade agreements in favor of a "bespoke, tailor-made approach" to trade policy.

[**Mark the Essentials**]

- Calling domestic trade tools a "key focus of U.S. trade policy toward China," the Office of the USTR said the administration will "strategically" use such tools, but did not elaborate on the specific choice of those tools.
- According to the Pentagon, U.S. microelectronic manufacturing capabilities must be strengthened to reduce America's reliance on Pacific Rim countries for the supply of critical military technologies.
- Aimed at countering China's influence by bolstering U.S. relations with "allies and partners" in the region, the IPEF, under the Indo-Pacific Strategy, plans to promote "high-standards trade," catalyze investment in "transparent, high-standards infrastructure," and "advance common approaches" to the digital economy and emerging technologies.
- A USTR official said the office is looking into ways to work with allies on "common challenges" from non-market economy practices on inclusiveness, workers rights, and other areas of "common interests."

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

- The Biden administration has a three-pronged approach with regard to its economic and trade strategies towards China. The first prong focuses on bilateral trade. In addition to holding China to its commitments in the Phase One trade deal, the administration presumably will seek to address and tackle fundamental issues, such as non-market industrial subsidy practices in any future trade negotiations with China. The second prong focuses on economically deepening region-wide partnerships with allies and partners in order to shrink China's relative economic footprint in the region. The soon-to-be formally released Indo-Pacific Economic Framework is the key deliverable in this regard. The final prong focuses on enhancing industrial competitiveness at home and shielding domestic firms from the full brunt of Chinese competition, using existing and new trade policy tools. This third prong is frequently referred to as the administration's 'worker centered' trade policies. The three prongs appear fine in theory. It is in their real-life application that the administration has so far found itself wanting. With the exception of the significant investments being made in U.S. industrial competitiveness, a common denominator across each of the three prongs is the administration's lack of purposefulness and unwillingness to grapple with the hard challenges at hand. Top administration trade policy officials can barely sit across the table with China, lest the latter insist on the removal of the self-defeating tariffs. The administration's regional consultation with allies and partners on the IPEF has been shallow, lest the latter insist on reciprocal access to U.S. markets. And the willingness to roll out new trade tools, as part of the worker centered philosophy, has been slow because the trade tools that the administration prefers will inevitably have a protectionist bent—and in some instances might even be WTO-illegal. Besides, not much intellectual or policy work has gone into the framing of these supposed new trade tools with partners, meaning tools like the IPEF and the U.S.-EU TTC will face difficulties delivering actionable blueprints in this regard.

[Expanded Reading]

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- Joe Biden's new Indo-Pacific Strategy: A view from Southeast Asia, Lowy Institute, February 16, 2022
- Navigating an Evolving Global Trade Landscape: What's Ahead in 2022, LA Area Chamber of Commerce, February 16, 2022
- FACT SHEET: Indo-Pacific Strategy of the United States, The White House, February 11, 2022

2 — Is U.S.-China Digital Economy Competition Up Next?— 2

[In One Sentence]

- The Office of the U.S. Trade Representative (USTR) added two Chinese e-commerce platforms to its "notorious markets" list, alleging that they have facilitated the trade of counterfeit goods.
- The U.S. Chamber of Commerce launched a new campaign to lobby for a "more robust" U.S. agenda on pursuing digital trade deals.
- The Indo-Pacific Economic Framework (IPEF) will emphasize the governance of the digital economy and "a common approach" to emerging and critical technologies.

[Mark the Essentials]

- The USTR said that the listed platforms "exemplify counterfeiting and piracy concerns" that can cause "significant harm to U.S. IP owners" and urged China to strengthen its enforcement actions. This year's list also highlights the listed markets' contribution to "exploitative" labor.
- Highlighting that the digital economy accounts for 10 percent of U.S. economic output, the Chamber of Commerce urged for the prioritization of digital trade deals to address the rise of "digital protectionism" and prohibit "forced localization" requirements.

- According to the Biden administration's Indo-Pacific Strategy, the IPEF aims to "govern digital economies and cross-border data flows according to open principles" and promote "consensus-based, values-aligned technology standards."
- The Indo-Pacific Strategy focuses on bonding with U.S. allies and partners such as Australia, Japan, Korea, the Philippines, Thailand, India, Indonesia, Malaysia, New Zealand, Singapore, and Vietnam, while emphasizing U.S. support for ASEAN and APEC.

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

- The framework to govern digital economy trade and cross-border flows is expected to be the centerpiece of the forthcoming Indo-Pacific Economic Framework (IEPF). Digital trade policymaking is a frontier area of policy making, and one where the Biden administration can show appreciable regional leadership in standards-setting without having to be weighed down by protectionist interests at home. The U.S. takes a more-or-less *laissez faire* approach on cross-border data flows, with a strong bent favoring commerce over other considerations, such as privacy and antitrust. Supporting Big Tech's ability to make deep inroads into lucrative markets overseas has been a longstanding policy priority. That said, the digital trade 'module' in IPEF faces a different set of challenges. Dynamic developments in the digital sector have tended to consistently outrun policymaking in their regard. The CPTPP's digital chapter that the U.S. initially helped write is already out of date (with the exception of the U.S.-Japan digital trade agreement). Furthermore, Big Tech's lobbying power within the Beltway has ensured that domestic law and regulation has been even slower to catch up with developments in the sector. This is now changing—for the better—within the Beltway, both from a privacy rights and personal data protection-perspective as well as from an antitrust perspective. Ironically, however, this recent activism in domestic policy making is adding more instability to cross-border data flow rulemaking, as domestic policy preferences run up against existing pro-Big Tech provisions in regional digital trade agreements. Hence, the moral of the story: on the digital front, it is best to get one's regulatory house in order first before championing rules regionally and multilaterally. As an involved player recently noted, "if you are going to include digital trade commitments, you have to be consistent with what Congress is doing domestically. You can't have a mismatch." Ironically, the one party working feverishly to endow fixity to its domestic regulatory regime so that it can participate more actively in region-wide rules-setting for cross-border data flows—that would be China.

[**Expanded Reading**]

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- Multilateral Trade Agreements in the Asia-Pacific: What China's Participation Means For MNCs, APCO Worldwide, February 16, 2022
- FACT SHEET: Indo-Pacific Strategy of the United States, White House, February 11, 2022
- America must be the standards setter — especially in the digital sphere, *The Hill*, February 11, 2022
- The Digital Trade Revolution, U.S. Chamber of Commerce, February 9, 2022
- Filling In the Indo-Pacific Economic Framework, CSIS, January 26, 2022

[Legislative Developments]

- A bipartisan group of Senators introduced the "Ocean Shipping Reform Act;" a companion to a House-approved bill to better protect U.S. exporters against "unfair practices" by ocean carriers.
- The former U.S. Innovation and Competition Act (USICA) is sought to be rebranded as the "Make it in America" bill by Democrats in the Senate.
- The House's votes on the America COMPETES Act largely adhered to party lines, with one Democrat opposing the bill and one Republican supporting the bill.

[Hearings and Statements]

- U.S. Secretary of Commerce Gina Raimondo said that the successful reshoring of semiconductor manufacturing "depends entirely" on a swift passage of CHIPS Act funding.
- Raimondo earlier urged Congress to not let differences in trade provisions bog down the whole House-Senate conference process on USICA and America COMPETES Act.
- A bipartisan group of 41 Senators called for a "more comprehensive" exclusion process for Section 301 tariffs against Chinese goods.
- Senate minority leader Mitch McConnell criticized the House for "far left" attempts in its America COMPETES Act and its dismissal of the delicate bipartisan balance arrived at in the Senate's USICA.
- Lawmakers leading the Congressional-Executive Commission on China called for more funding to implement the Uyghur Forced Labor Act.

[Keeping an Eye On...]

- With the Build Back Better Act having fallen by the wayside, at least for the time being, the America COMPETES Act and USICA conference process is the only game in town insofar as the China Challenge is concerned on the Hill. There is much ground to bridge as yet, however, on the part of the House-Senate conferees. From CHIPS Act funding to funding for scientific research and development to trade policy and foreign policy, the COMPETES Act and USICA are riddled with a number of divergent priorities. The Biden administration had sought to conclude negotiations in conference before Tuesday's presidential State of the Union address, but it may well be weeks, maybe even months, before agreement is reached among conferees. One thing is certain though: having passed the COMPETES Act on a party line vote, it will be the House that will have to do much of the compromising within the conference process so that at least ten Republican senators (the minimum needed to break a filibuster) can be incentivized to sign on to the final product. Both China and Commerce Secretary Gina Raimondo, who has called for swift passage in order to secure CHIPS Act funding, will be watching eagerly from the sidelines.

[Expanded Reading]

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- Portman, Carper Lead Senate Call for Administration to Relaunch a Comprehensive Tariff Exclusion Process, U.S. Senator for Ohio Rob Portman Press Release, February 7, 2022
- Remarks by U.S. Secretary of Commerce Gina Raimondo on Passage of the America COMPETES Act, U.S. Department of Commerce, February 4, 2022

- Klobuchar Introduces Legislation to Ease Export Shipping Backlogs, Boost U.S. Exports, U.S. Senator Amy Klobuchar Press Release, February 3, 2022
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ICAS TRADE N TECH DISPATCH

March 11, 2022

Volume 2, Issue 5

What's Been Happening

1 — Fleshing out the IPEF amid Varying Visions— 1

[**In One Sentence**]

- The Biden administration's Indo-Pacific Economic Framework (IPEF) is increasing its outreach to lawmakers and private sector stakeholders.
- Business groups have called for the administration to pursue enforceable commitments, new market opportunities, and a wide adoption of high standards through IPEF.
- Official text regarding IPEF's digital economy provisions is yet to be released.
- Canada seeks to speak with the U.S. and explore "synergies" with the IPEF on digital trade and the economy.

[**Mark the Essentials**]

- Despite the administration's briefings to key committees, Congress still lacks clarity on the objective, specific form, and enforcement mechanism of the Indo-Pacific Economic Framework (IPEF).
- Multiple business groups jointly called for the IPEF to be a comprehensive approach to trade, technology and commerce "such as the CPTPP," stressing the importance of new market-access opportunities.
- USTR Tai has said that the Biden administration hopes to resolve agricultural producers' trade woes through exploring novel regulatory approaches and standards in the IPEF.
- On digital trade, business groups prioritized unrestricted cross-border data flows, customs duties on electronic transmission, and the protection of source code while Congress prefers that the administration focus less on "controversial" issues such as intermediary liability.
- The Canadian trade minister Mary Ng expressed interest in developing a digital economy deal within the IPEF that is similar to the Digital Economy Partnership Agreement (DEPA).

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

- With President Joe Biden due in East Asia in late-May, the wheels have finally begun to move in earnest on finalizing a comprehensive Indo-Pacific Economic Framework plan. Domestic stakeholder consultations have begun, Request for Comment notices put out, and hearings scheduled on the Hill. The effort to garner buy-in from interested and affected constituencies is commendable. The nagging question, however, is whether these consultations with stakeholders will amount to much or is a more-or-less *pro forma* undertaking that is intended primarily to create an impression of stakeholder engagement. The administration has already let it be known that the IPEF will take the form of an administrative arrangement (meaning that its provisions will not be subject to congressional ratification) and that it does not seek to address tariff barriers at this time (meaning that Indo-Pacific countries should not expect reciprocal and liberalized access to the U.S. market). As best as one can gauge, the administration's IPEF effort is geared towards obtaining "high-standard, worker-centered commitments" from its Asian partners as well as crafting trans-Pacific supply chains in the clean energy and advanced manufacturing sectors that cut China out. State-of-the-art digital trade provisions are also sought to be forged. None of these work streams make for an easy negotiation with Hill representatives, business stakeholders or Asian partners, and it may well be the case that the administration itself sees the IPEF as a placeholder until it can better cover its political flanks at home on trade policy before embarking on a more ambitious liberalizing effort later on. Regardless, the on-going stakeholder outreach has the virtue at this time of helping outside observers piece together the pieces of the administration's IPEF jigsaw. Hopefully, the final product will make for appealing reading.

[**Expanded Reading**]

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- America must be the standards setter — especially in the digital sphere, *The Hill*, February 11, 2022

2 — U.S.-China Supply Chain Partial Decoupling Deepens — 2

[**In One Sentence**]

- The Biden administration released several assessment reports of supply chain vulnerabilities across six key industries.
- On the U.S. information and communications technology (ICT) supply chain, the assessment urges the administration to pursue a "comprehensive strategy" to revitalize domestic ICT manufacturing.
- The Department of Energy assessment argues for an increase in incentives and support for U.S. solar manufacturers to outcompete China and reduce reliance on the country.
- The administration has stated that its proposed tax credits linked to the manufacture of electric vehicles may be open to revision.

[**Mark the Essentials**]

- In its recent official release on critical supply chains, the White House emphasized a "friend-shoring" approach to supply chains while stressing the need to reduce dependence on China.
- The multi-departmental assessment also recommends financial support for "friend- and near-shoring manufacturing" of critical ICT components unlikely to be produced domestically in the near future.
- The Department of Energy assessment report calls for "the highest incentive" to support U.S. ingot and wafer production, which China currently dominates.
- According to Deputy USTR Jayme White, the proposal for electric vehicle tax credits can be "shaped and reshaped" but a Canadian official at the same event said mere talks of the proposal chills investment.

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

- On the same day that the Biden administration sought to have the Chinese government condemn its Russian partner for the latter's invasion of Ukraine, the White House proudly advertised the fruits of its labor with regard to the further decoupling of key supply chains from China. Such are the dilemmas of governing. The occasion was the one-year anniversary of Executive Order 14017, which had directed an all-of-government approach to assessing vulnerabilities in—and strengthening the resilience of—the United States' critical supply chains. More activities are planned in this regard later this year, including domestic summits that aim to align regional economic development strategies with the administration's national supply chain strategy. To the administration's credit, it has done more to integratively think through and reshape U.S. industrial policy using existing statutory authorities in one year than all administrations, put together, had managed over the past 40 years. Overall, the administration's supply chain focus has been to 'reshore', 'near-shore', and 'friend-shore' the production of critical items. From a U.S.-China strategic competition perspective, the desire to decouple key supply chains from China is understandable—even if it may not be the wisest decision. But is the logic of reshoring as compelling from a purely commercial perspective? Emerging research suggests that this may not be the case. Engagement in global value chains helps dampen rather than accentuate exposure to risk and allows unexpected shocks to demand to be better managed than in a world of predominantly reshored or near-shored production. And rather than promote geographic diversification—i.e., friend-shoring—of input sourcing, better inventory management might well be the key to management of more resilient supply chains for critical products.

[**Expanded Reading**]

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- Executive Order on America's Supply Chains: A Year of Action and Progress, The White House, February 7, 2022

3 — Pursuit of Fundamental Issues Stall U.S.-China Trade Negotiations— 3

[**In One Sentence**]

- The Office of the USTR has a new Strategic Plan, its first since 2013.
- House Republicans urged the Biden administration to more strictly enforce the phase-one trade deal and seek "damages" for failed commitments.
- USTR Katherine Tai observed that trade talks with China over Beijing's failed purchase commitments have gotten "more difficult over time."
- Chinese solar suppliers have established separate production lines free from forced labor concerns for U.S.-bound goods.

[**Mark the Essentials**]

- Despite containing multiple mentions of China, the USTR's new Strategic Plan provides little new information about the Office's overall China policy.
- Led by House Minority Leader Kevin McCarthy, Republican lawmakers also asked whether the administration plans to negotiate a new and "fully enforceable" trade deal with China.
- According to USTR Tai, conversations are increasingly focused on building resilience and trust in the global economy, as well as calling China to join these efforts and "play by our rules."

- According to industry analysts, China's domestic demand would be "almost" sufficient to consume all of the polysilicon produced in the Xinjiang region.

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

- U.S.-China trade negotiations are currently stalled, and for good reason: there has simply not been concerted top-level engagement between the two sides. Indeed, at no point in the past 30 years going back to the first Clinton administration has there been as little high-level contact between the USTR and Beijing in the first 14 months of an administration as is the case currently with the Biden administration. Past administrations sat across the table and sought to press Beijing to liberalize its trade regime and implement structural reforms. Not this administration however, for reasons best known to itself. It is somewhat rich, therefore, for USTR Katherine Tai to suggest that conversations with Beijing—and especially conversations with regard to an agreement that has formally expired—have gotten "more difficult over time." The administration appears to be comfortable, in fact, with maintaining the status quo in U.S.-China trade relations and moving ahead with other, more urgent, matters; even at the expense of leaving matters unresolved for U.S. businesses. Witnessing this diffidence and perhaps worse, the continuing unwillingness or (political) inability to remove the Trump-era tariffs, Beijing too has continued to reciprocate the attitude by limiting cooperation on trade policy matters to the lowest common denominator level. However, there is a certain inevitability that the two sides, down-the-line, will engage more forthrightly on trade policy matters, perhaps after the administration's Indo-Pacific Economic Framework (IPEF) is released. It is also becoming increasingly clear that trade policy is no longer the ballast of the bilateral relationship that it used to be in yesteryears. Large market purchases by China, be it of aircraft or corn, no longer elicits the same goodwill across the American political spectrum that it used to. And as for China's leaders, techno-nationalism rather than two-way trade is viewed as the indispensable ingredient that will deliver the economy to a more sophisticated production structure—especially as the U.S. goes about imposing a range of technology controls on the country.

[**Expanded Reading**]

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- Agricultural Outlook Forum, U.S. Department of Agriculture, February 24, 2022
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- Letter from House Republicans to President Biden, Congress of the United States, February 15, 2022

TnT ICAS TRADE N TECH DISPATCH

March 25, 2022

Volume 2, Issue 6

What's Been Happening

1 — Supply Chain Security Needs Clash with Globalization — 1

[In One Sentence]

- The Biden administration is developing "sustainability standards" for critical materials and minerals within U.S. supply chains.
- A new World Bank report cautioned on global income loss if countries worked to reshore production.
- President Biden raised the domestic content threshold for "Buy America" rules, increasing sequentially to 75% in 2029.
- U.S. lawmakers disagreed about whether or not to support electric vehicle production within the U.S.
- Business groups are calling for an extended transition period before full implementation of the Uyghur Force Labor Prevention Act.

[Mark the Essentials]

- Following initial efforts on microelectronics, the White House plans to adopt comprehensive sustainability standards for essential minerals in strategic industries such as automotive and aerospace, steel and energy.
- According to the Bank's report, countries that benefit the most from increasing global supply chain integration include Thailand, Malaysia, Turkey and Vietnam.
- The White House is also looking at further "Buy America" rulemaking for semiconductors, pharmaceuticals and advanced batteries.
- Republicans argue that an uptick in electric vehicle production increases U.S. dependence on components and materials produced in China.
- Several industry groups recommended a transition period of at least a year to allow companies to refine their due diligence programs, while others called for more clarity and transparency in the evidentiary standard.

[Keeping an Eye On...]

- Under its "Build Back Better" agenda, the Biden administration has sought to chart an ambitious program of "strategic industrial policy" investments in U.S. industrial capabilities. This agenda envisages a range of interventions in American hard and soft infrastructure that can support jobs and employment, sharpen America's competitive edge, and avoid shortages of critical products. The resilience of supply chains is one of five core pillars of the administration's 21st century industrial policy, the other pillars being targeted public investment, public procurement, building climate resilience, and advancing equitable outcomes. The administration has wasted no time in pursuing its supply chain goals, rolling out a number of initiatives in the areas of semiconductors, critical materials and minerals, and large capacity batteries. Federal procurement preferences to pull forward demand in new clean energy products have also been thrown into the mix. More initiatives are planned later this year, including domestic summits that aim to align regional economic development strategies with the administration's national supply chain strategy. There are apprehensions within the business community though that the supply chain resilience agenda—framed as it is in the context of the administration's "extreme [strategic] competition" approach towards China—will accelerate the drift towards decoupling and perhaps even towards protectionism. At minimum, the emphasis on 'reshoring', near-shoring' and 'friend-shoring' of supply chains, it is feared, will begin to reverse the forces of globalization and place many Asia-Pacific nations that have hitherto been staunch advocates of globalization and 'open regionalism' in a dilemma: Do they join Washington's 'friend-shored' but 'Beijing-decoupled' supply chain or should they continue to place their regionally-integrated trade policy eggs in the China basket?

[**Expanded Reading**]

- The U.S. Is Racing To Reduce Its Rare Earths Dependence On China, *OilPrice.com*, March 14, 2022
- US-China Business Council Comments Regarding Enforcement of the Uyghur Forced Labor Prevention Act, US-China Business Council, March 10, 2022
- Amid record gas prices, lawmakers divided over US energy future, *The Hill*, March 8, 2022
- Hearing: "Charging Forward: Securing American Manufacturing and Our EV Future," Subcommittee on Energy (House of Representatives Committee on Energy and Commerce), March 8, 2022
- Biden announces strengthened Buy American rule to help boost domestic manufacturing as he touts February job numbers, *CNN*, March 4, 2022
- FACT SHEET: Biden-Harris Administration Delivers on Made in America Commitments, The White House, March 4, 2022
- Reshaping Global Value Chains in Light of COVID-19 : Implications for Trade and Poverty Reduction in Developing Countries, The World Bank, March 4, 2022
- FACT SHEET: Biden-Harris Administration Announces Supply Chain Disruptions Task Force to Address Short-Term Supply Chain Discontinuities, The White House, June 8, 2022

2 — Onboarding Allies and Partners within the IPEF — 2

[**In One Sentence**].

- The Biden administration again confirmed that it has no intention to address tariff barriers through the Indo-Pacific Economic Framework (IPEF).
- The Office of the U.S. Trade Representative (USTR) has solicited comments on the trade pillar of IPEF.
- Several Senate Finance Committee members criticized the lack of market-access commitments in IPEF.
- The U.S. deepened IPEF-related engagement with the United Kingdom and Australia, while a Taiwanese official commented on the island's hopes to be a "full member" of the Framework.

[**Mark the Essentials**]

- IPEF's trade module is to cover labor, environment and climate, digital economy, agriculture, transparency and good regulatory practices, competition and trade facilitation issues, while maintaining a studied distance from market access commitments.

- The USTR seeks comments on the practices of third-country entities that undermine fair market opportunities, among other general issues.
- Senators and analysts warned that a trade pillar focusing exclusively on digital trade, forced labor and trade facilitation might not be sufficient to attract Indo-Pacific partners.
- Senate Finance Committee Chair Ron Wyden and other lawmakers also called for more consultation and engagement with Congress.

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

- At long last, the Indo-Pacific Economic Framework (IPEF) appears to be entering the final lap of consultations prior to its release. Stakeholder meetings are well under way and a formal document is expected to be released by end-April or soon thereafter. The hope that the IPEF would be released at the end of March to coincide with President Biden's hosting of a special summit with Association of Southeast Asian Nation (ASEAN) leaders was dashed, given that due to scheduling-related difficulties the summit had to be postponed to a later date. The Ukraine crisis has also diverted attention from the rollout of the Framework. That said, ASEAN nations as well as Japan, Australia, and Taiwan have already evinced interest in joining the IPEF. As currently envisaged, IPEF is in all frankness more show than substance. It lacks hard liberalizing commitments, is a mile wide but inch deep in its coverage of issues areas, and is primarily intended to elevate non-trade considerations such as labor and environmental protections rather than integrate trans-Pacific markets. Locking the United States within region-wide economic endeavors is a key priority however for a number of Asia-Pacific nations, especially at a time when Washington has sent mixed messages regarding its economic staying power in Asia. As such, when IPEF does formally see the light of day, it is expected to receive polite applause across the Pacific. Time will tell, however, whether an economic strategy for Asia that has no role for Chinese participation within its processes can prosper in the medium to long term.

[**Expanded Reading**]

- Readout of Ambassador Sarah Bianchi's Third Day in Australia, Office of the U.S. Trade Representative, March 16, 2022
- The Promise and Challenge of Strategic Trade Engagement in the Indo-Pacific Region, House of Representatives Committee on Finance, March 15, 2022
- Wyden Statement at Finance Committee Hearing on the Promise and Challenge of Strategic Trade Engagement in the Indo-Pacific Region, House of Representatives Committee on Finance, March 15, 2022
- Indo Pacific strategy faulted in hearing for lack of new market access, *AgriPulse*, March 16, 2022
- Joint Statement on U.S.-UK Consultations on the Indo-Pacific, The White House, March 11, 2022
- Request for Comments on the Proposed Fair and Resilient Trade Pillar of an Indo-Pacific Economic Framework, Office of the U.S. Trade Representative, March 10, 2022

[**Legislative Developments**]

- More than 140 lawmakers called for a swift conferencing process on USICA and the America COMPETES Act in order to secure funding for semiconductor incentives.
- A bipartisan group of House lawmakers introduced the "Facilitating American-Built Semiconductors Act" (FABS Act) to create an investment tax credit for the semiconductor industry.
- The Senate Commerce Committee advanced the Ocean Shipping Reform Act by voice vote, a bill to tighten regulation of ocean freight carriers.
- House Ways & Means trade subcommittee Chair Earl Blumenauer said that a conference bill for USICA and America COMPETES can "absolutely" be drafted by Memorial Day (May 30).

[**Hearings and Statements**]

- The House Oversight Committee initiated an investigation into "predatory" ocean carrier practices that impact U.S. imports and exports.
- Senator Tom Cotton demanded an explanation on the Biden administration's decision to delay launching a new Section 301 investigation into Chinese industrial subsidy practices.
- Several lawmakers disagree over whether to launch an investigation on Southeast Asian entities allegedly used by China to circumvent U.S. trade restrictions on Chinese solar panels.

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

- The China competitiveness-related legislation continues to trudge its way through the two chambers of Congress. By the end of March, the hope is to have the procedural arrangements in place to move forward with the conference process to reconcile the differences between the House-passed America COMPETES Act and its Senate counterpart, the U.S. Innovation and Competition Act (USICA). And then to have the final product clear the floor in the two chambers thereafter by Memorial Day. The latter looks like an optimistic timetable. For one, the Ukraine conflict has diverted legislative energies away from the China focus. More importantly, the America COMPETES Act is festooned with a number of partisan giveaways, especially in its trade title, and Republicans are loth to support a package containing numerous indigestible elements. Much negotiating behind closed doors remains to be done. How the two parties—and chambers—'spilt the baby' will be the key element to watch, going forward. Republicans would much prefer that the core competitiveness-related provisions in the final conference product, such as the semiconductor funding provisions, pass as cleanly as possible. Sensing a final opportunity for a legislative victory on domestic policy priorities prior to the midterm elections, the Democrats for their part would much prefer to retain as many of their 'Build Back Better' agenda items in the final conference product. Despite a broad overlap across parties on the key innovation and competition-related elements vis-a-vis China, final passage of this critical legislation in this 117th United States Congress remains as yet a toss-up.

[**Expanded Reading**]

- Senate Committee Approves Ocean Shipping Reform Act, *Transport Topics*, March 22, 2022
- Kelly and Bipartisan Members Introduce Facilitating American-Built Semiconductors Act, Office of Rep. Mark Kelley (R-PA), March 17, 2022

- Letter from Sen. Tom Cotton to USTR Katherine Tai, Office of Sen. Tom Cotton (R-AR), March 15, 2022
- Washington Week Ahead: Omnibus done, Congress to-do list includes shipping reform, *AgriPulse*, March 13, 2022
- Klobuchar and Thune tout bipartisan progress on shipping, Office of Sen. Amy Klobuchar (D-MN), March 11
- Commerce buys time to review solar module dumping claim, *Renewable Energy World*, March 11
- Brown, Portman Urge Commerce Secretary to Accept Anti-Circumvention Petition, Support U.S. Solar Manufacturing & Ohio Jobs, Office of Sen. Sherrod Brown (D-OH), March 9, 2022
- Letter from 142 Lawmakers to the Congressional Leadership, Office of Rep. Doris Matsui (D-CA), March 8, 2022
- Letter from SEIA Members to Commerce Secretary Gina Raimundo, Solar Energy Industries Association, March 7, 2022
- Testimony of Chairman Maffei before Congress: "Executive Session and Ocean Shipping Reform Act Hearing," Federal Maritime Commission, March 7, 2022
- Chairs Clyburn and Krishnamoorthi Seek Information from Ocean Freight Carriers About Price Increases for Americans, House Committee on Oversight and Reform, March 2, 2022
- U.S. solar producer asks Biden administration for new tariff probe, *Reuters*, February 9, 2022 [Paywall]
- S.2107 - Facilitating American-Built Semiconductors (FABS) Act, Congress.gov, June 17, 2021

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中美研究中心 ICAS

Institute for China-America Studies

1919 M St. NW Suite 310
Washington, DC 20036
202 968-0595 | www.chinaus-icas.org