

October 20, 2022

Volume 2, Issue 21

What's Been Happening

1 — New Export Controls on China: A New Tech ‘Cold War’ Gathers Steam — 1

[In One Sentence]

- The Commerce Department’s Bureau of Industry and Security (BIS) announced a series of “targeted” export control measures to restrict China’s ability to purchase and manufacture advanced technologies.
- The measures expand the scope of licensing requirements for 28 existing Chinese entities that were added to the Entity List between 2015 and 2021.
- The White House is reportedly considering an executive order to establish an outbound investment review mechanism.

[Mark the Essentials]

- The new BIS rules expand export control restrictions to cover advanced and high-performance computing chips and computer commodities, advanced computing integrated circuits as well as certain foreign-produced advanced computing items. Semiconductor manufacturing equipment destined to China is subject to license requirements under a presumption of denial.
- Congressional leadership has urged the White House to utilize executive authority and introduce an outbound investment screening mechanism in sectors pertaining to national security, noting the slow legislative movement on this front.
- Highlighting a lack of consensus in Congress, other lawmakers argued that the establishment of an outbound investment review mechanism requires rigorous congressional consideration and that the scope of the review mechanism must be clearly—and potentially narrowly—defined.

[Keeping an Eye On...]

- On October 7, the Biden administration unleashed its hardest hitting export controls yet with regard to China. The Advanced Computing and Semiconductors Rule takes specific aim at the Fourth Industrial Revolution technologies that are blurring the lines between the physical, digital, and biological worlds—although the Rule’s ostensible focus is on tech-enabled military capabilities. The controls, which are layered upon each other and thereby interlock together, aim to throttle China’s high-performance computing, supercomputing and vibrant AI sector by denying access to high-performance chips. They also throttle China’s advanced chip fabrication capability by denying access to U.S.-origin components, throttle China’s chip design sector by denying access to U.S.-chip design software, and throttle China’s chip manufacturing capability by denying access to U.S.-built semiconductor manufacturing equipment. The controls essentially

aim to emasculate China's ecosystem of advanced computing capabilities, and reach far and beyond the chokehold that was placed on Huawei in August 2020. The export control order follows in the wake of a landmark speech delivered by National Security Advisor Jake Sullivan in mid-September, where he had listed computing-related technologies (microelectronics, AI, quantum information systems) as one of "three families of...force multiplier...technologies" that would determine the difference between victory and defeat in the technological and geopolitical landscape of the 21st century. Given the foundational nature of these technologies, "we (the U.S.) must maintain as large a lead as possible," he had added. With this wide-ranging Advanced Computing and Semiconductors Rule, it is becoming increasingly clear that the day has now passed when Washington might have leveraged its upstream prowess in the chips and advanced manufacturing sector to insist that market-based approaches and technology-neutral state aid become the principal basis of China's industrial and innovation policies. U.S. actions have less to do with fair and efficient competition and more with thwarting China's rise, which at the end of the day will leave both parties worse off. For the time being though, the listed technology embargoes will hurt China, and hurt it severely.

[Expanded Reading]

- [Revisions to the Unverified List; Clarifications to Activities and Criteria That May Lead to Additions to the Entity List](#), Bureau of Industry and Security, Federal Register, October 13, 2022
- [Commerce Implements New Export Controls on Advanced Computing and Semiconductor Manufacturing Items to the People's Republic of China \(PRC\)](#), Bureau of Industry and Security, Office of Congressional and Public Affairs, October 7, 2022
- [US Senate weighing limits on US investments in Chinese hi-tech businesses](#), *South China Morning Post*, September 30, 2022
- [Examining Outbound Investment](#), Hearing at the United States Senate Committee on Banking, Housing and Urban Affairs, September 29, 2022
- [Pelosi, Schumer push White House to screen American investments in China](#), *Politico*, September 27, 2022

2 — Deepen Trade with Allies or Just Sign Pacts? — 2

[In One Sentence]

- The Biden administration's new National Security Strategy emphasized "inclusive trade" and growing the "connective tissue" of technology, trade and security between allies and partners.
- U.S. Trade Representative (USTR) Katherine Tai said the IPEF's lack of market access provision is a "feature" to address past mistakes and persistent issues as well as the "growing inequality" caused by globalization.
- A senior White House official called on U.S. agencies to put "real dollars" and effort behind IPEF, G7 and other U.S. trade initiatives to support U.S. exporters and improve the lives of people around the world.
- A leaked European Commission report marked artificial intelligence, semiconductors, infrastructure financing in third countries, digital platforms, human rights and clean technology as potential deliverables for the U.S.-EU Trade and Technology Council (TTC), but warns of a growing mismatch between potential and tangible results.
- The U.S. is conducting a "real conversation" with the European Commission and South Korea over "deep" concerns about the allegedly discriminatory electric vehicle and renewable energy tax credit contained in the Inflation Reduction Act.
- The U.S. and EU are actively discussing U.S. concerns about European policies on data and the digital economy.

[Mark the Essentials]

- USTR Tai highlighted that the Biden administration has not “sworn off” market access and trade liberalization efforts, but instead argued that liberalization and tariff elimination cannot happen “at the cost of further weakening our supply chains, exacerbating high-risk reliances, decimating our manufacturing communities, and destroying our planet.”
- Contending that initiatives like IPEF is “no substitute” for traditional trade agreements, House Ways & Means Committee Trade Subcommittee ranking member Adrian Smith argued that the administration’s lack of a “robust and proactive trade strategy” has exacerbated economic problems such as inflation and high fuel costs.
- Civil, labor and religious groups have criticized the IPEF for its lack of transparency, noting that the confidentiality agreements over IPEF documents are even more extensive than the equivalent ones at the time of the mid-2010s Trans-Pacific Partnership (TPP) negotiations.
- According to a former U.S. trade official, the Biden administration’s reluctance to pursue trade liberalization, accompanied with a strong focus on the interests of U.S. workers, will make it difficult to secure buy-ins from allies and partners, especially on broader agenda items concerning climate change, sanctions on Russia, and a common front against China.

[Keeping an Eye On...]

- Fall is here, which means the season of trade policy conference diplomacy is upon us as well. Over the next two months, there will be ministerial-level meetings of the U.S.-EU Trade and Technology Council (TTC), the Indo-Pacific Economic Framework (IPEF) and the Asia-Pacific Economic Cooperation (APEC) grouping, among others. Substantive progress has been slow to come by so far; particularly within the TTC’s five annexed statement areas and 10 working groups (with the exception of export control cooperation vis-à-vis Russia) that were inaugurated with much fanfare in Pittsburgh on September 29, 2021. As for the IPEF trade pillar, the Biden administration released its “negotiating goals” in late-September, which are categorized as ‘resilience, inclusion, and sustainability.’ They could also be listed as ‘decouple, protect(ionism), and regulate,’ respectively. About the only common element listed in the ministerial statements across the four pillars of IPEF is the intention to promote labor rights based on the ILO Declaration on Fundamental Principles and Right at Work. This in and of itself is of no issue; nobody is ever going to be against it. But prioritizing labor over (trade) liberalization in the name of “inclusive trade” does not bode well insofar as a trade agreement is concerned. Furthermore, the administration’s overly ‘worker-centric’ focus will soon hit a wall in Asia when the IPEF negotiations begin in earnest. In all fairness, U.S. Trade Representative Tai is likely to face just as much pushback on the domestic front given that the design and contents of IPEF is as cryptic to members on Capitol Hill. IPEF bears only passing resemblance to an economic and trade agreement, at this time. When President Joe Biden addresses the APEC CEO Summit in Bangkok in mid-November on his trade policy philosophy and plans, perhaps more clarity will be available.

[Expanded Reading]

- [FACT SHEET: The Biden-Harris Administration’s National Security Strategy](#), The White House, October 12, 2022
- [Biden’s contradictory goals set to collide at G-20 and APEC](#) by Stephen Olsen, Hinrich Foundation, October 11, 2022

- [64th NABE Annual Meeting Shocks and Aftershocks](#), Event by National Association for Business Economics, October 9-11, 2022
- [Remarks by Ambassador Katherine Tai at the Roosevelt Institute's Progressive Industrial Policy Conference](#), Office of the United States Trade Representative, October 7, 2022
- [Squandering an opportunity on trade](#) by Rep. Adrian Smith, *The Hill*, October 5, 2022
- [IPEF confidentiality rules revealed](#), *Politico*, October 3, 2022
- [IPEF Secrecy Agreements Undermine Biden Administration's Claims of a New Trade Model](#), Public Citizen, October 3, 2022
- [EU Commission sets member states' expectations for next transatlantic meeting](#), *Euractiv*, October 3, 2022

Midterm Outlook

[Off to the Races]

- The U.S. trade relationship with China and the Indo-Pacific continues to fly far below the radar in midterm voters' minds, overshadowed by hot-button domestic issues like inflation, abortion, crime and immigration.
- Nevertheless, with factions in Congress both pushing against and egging on the President's trade agenda, the outcome of the midterms could have a marked impact on trade policy for the remainder of Biden's term.
- As it stands, it is forecasted that the Democrats will likely hold the Senate but lose the House to the GOP. Incumbent Democrats are favored in several key races, but redistricting and low turnout has left several red districts virtually uncontested.
- In short, the fate of the Senate rests on a few key states: Pennsylvania, Georgia, Ohio, Wisconsin, and Nevada. While Democrats have pulled ahead in Pennsylvania and Georgia after several gaffes and scandals on the other side, the margin in Nevada remains razor-thin while Republicans have pulled ahead in midwest races.
- While trade issues are not at the forefront of this election, Wisconsin's two candidates are diametrically opposed in this regard. Incumbent Republican Ron Johnson is one of the foremost proponents of free trade on the Hill, while his Democratic challenger Mandela Barnes has taken a staunchly protectionist position. This is not a universal divide however, as in Ohio both candidates are trying to outcompete each other for the 'tough on China, pro-American worker' label.

[On the Hill]

- Speaking at a virtual town hall event, Rep. Ro Khanna (D-CA) said that 'Big Tech' companies must not be allowed to influence digital trade rules to the extent that they gut labor standards and consumer protections.
- In a letter to the Secretary of Commerce, Sen. Elizabeth Warren (D-MA) and Rep. Pramila Jayapal (D-WA) wrote that they are concerned about the role that former employees of 'Big Tech' companies are playing in digital trade negotiations for IPEF and the U.S.-EU TTC.
- According to Sen. Bob Menendez (D-NJ), USTR has offered up "virtually nothing" in consultative talks with Congress on its ongoing trade negotiations, leading the Senator to stall the confirmation of a key agricultural negotiator until there is "greater oversight and transparency."

- House Republicans introduced their version of the ‘Taiwan Policy Act’ which would direct Congress to negotiate a bilateral free trade agreement with Taipei “as soon as possible” and call on the Commerce Department to work to ensure Taiwan’s participation in IPEF.
- Various Senators have attached trade-related provisions as amendments to the annual defense bill, with measures including lowering tariffs on trading partners targeted by China, bolstering and decoupling strategic supply chains which involve China, as well as strengthening trade ties in the Western hemisphere.

[Expanded Reading]

- [Silicon Valley’s congressman offers a midterm warning](#), *Axios*, October 17, 2022
- [Money Pours Into Senate Races as Midterm Campaign Enters Home Stretch](#), *The Wall Street Journal*, October 16, 2022 [Paywall]
- [Ahead of midterms, politicians warn against using China rhetoric that scapegoats Asians](#), *NBC News*, October 13, 2022
- [Wisconsin’s Ron Johnson Showing Strength in State Biden Won](#), *The Wall Street Journal*, October 12, 2022 [Paywall]
- [Senators seek billions more in military aid for Taiwan](#), *Politico*, October 12, 2022
- [Why Republicans Could Prevail in the Popular Vote but Lose in the House](#), *The New York Times*, October 11, 2022 [Paywall]
- [Five key issues that could decide the midterms](#), *The Hill*, October 9, 2022
- [Letter to Secretary of Commerce Gina Raimundo](#), Congress of the United States, October 6, 2022
- [Big Tech’s “Digital Trade” Attack on Working People & Labor Rights](#), American Civil Liberties Project, October 6, 2022
- [Path uncertain for US-Taiwan free trade deal despite Hill support](#), *RollCall*, October 3, 2022
- [Menendez puts hold on McKalip nomination for USTR’s chief ag negotiator](#), *AgriPulse*, September 28, 2022