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What's Been Happening

1 — National Economic Security Legislation and Regulation Grinds On — 1

[In One Sentence]

- U.S. Deputy Secretary of State Wendy Sherman said that a conflict in the Taiwan Strait is “a matter of economic security for the entire world,” likening it to the Ukraine crisis.
- The Biden administration is working with Congress to “expand [the] toolbox on economic coercion.”
- The United States’ trade in goods with China reached US\$680.7 billion in 2022—the highest on record.

[Mark the Essentials]

- The U.S. Department of Justice and the Department of Commerce jointly launched a “Disruptive Technology Strike Force” to investigate and prosecute criminal violations of export laws and export controls with an aim to protect U.S. advanced technologies from “nation-state adversaries.”
- In a recent report, the Senate Foreign Relations Committee Democrats urged the Biden administration to allocate more resources to advance U.S. diplomacy and development interests in the Indo-Pacific and counter China’s influence in the region. The report also called on the administration to “actively cultivate Congress as a partner.”
- Senators Todd Young and Chris Coons reintroduced an updated version of the Countering Economic Coercion Act, which would enable the President to increase tariffs against “foreign adversaries” committing economic coercion and support trading partners targeted by coercion through lowered tariffs or aid.
- House Foreign Affairs Committee Chair Michael McCaul and Appropriations Committee ranking member Rosa DeLauro jointly called on President Biden to take “immediate action” and screen outbound investments to China.

[Keeping an Eye On...]

- It is now approaching almost five years since the U.S. Congress enacted the Foreign Investment Risk Review Modernization Act (FIRRMA) and, in the process, inaugurated an active period of legislation and regulation related to national economic security. FIRRMA was followed by the all-encompassing Information and Communications Technology and Services Executive Order (ICTS EO) in May 2019, which provided the basis for the export controls clampdown on Huawei. These controls were dramatically expanded to the entire Chinese advanced computing and semiconductor ecosystem in the Commerce Department’s October 2022 Advanced Computing and Semiconductors Rule. Relatedly, protections against China’s collection and exploitation of sensitive data of U.S. persons was enumerated in the Biden administration’s Connected

Software EO in June 2021, and implemented in November 2021. Mitigation measures against perceived security risks have been presented more recently to TikTok, the viral video app, by the Committee on Foreign Investment in the United States (CFIUS). During these five years, a number of Chinese economic actors, both state-owned and private, have also been dumped into a plethora of lists—ranging from the Entities List, the Unverified List, the Chinese Military-Industrial Complex Companies (CMIC) List, and the Military End User List (although none was dropped into the Treasury Department’s Specially Designated Nationals and Blocked Persons List). This intensified legislative and regulatory focus on national economic security will persist in 2023. The Treasury and Commerce Departments are due to submit their 2023 Omnibus Bill-mandated reports on their respective “role in the establishment of a program to address the national security threats emanating from outbound investments [to the PRC]” by February 27th. Also, the Deputy Attorney General’s recent remarks on “disruptive technologies” suggests that a White House Executive Order on an outbound investment screening mechanism may be in the offing. Meantime, from a trade policy standpoint, bills to expand the toolkit of options to counter China’s ‘economic coercion’ have been introduced in both chambers of Congress. Corresponding European Union-wide legislation is at the ‘trilogue’ stage featuring advanced deliberations between the European Commission, Council and Parliament. The EU’s anti-coercion instrument-related deliberations follow in the wake of its Foreign Direct Investment Regulation, its toolbox of 5G-related mitigation measures, as well as its recently passed Foreign Subsidies Regulation. Clearly, the active spell of legislation and regulation on national economic security on both sides of the Atlantic with a focus on China continues, and will remain an important feature of the international economic landscape in 2023.

[Expanded Reading]

- [Gauging the Impact of the China-US Trade War](#), *The Diplomat*, February 17, 2023 [Paywall]
- [Justice and Commerce Departments Announce Creation of Disruptive Technology Strike Force](#), U.S. Department of Justice, February 16, 2023
- [Priorities for Economic Policy Toward China](#), American Enterprise Institute, February 16, 2023
- [A conversation on the US approach to the People’s Republic of China with Deputy Secretary of State Wendy R. Sherman](#), Brookings, February 15, 2023
- [U.S.-China Trade Grows as Spy Balloon Raises Tension](#), *The Wall Street Journal*, February 9, 2023 [Paywall]
- [2022 U.S.-China Trade Data Shows No Signs of Widespread Decoupling](#), Cato Institute, February 9, 2023
- [Evaluating US-China Policy in the Era of Strategic Competition](#), Senate Committee on Foreign Relations, February 9, 2023
- [With eye on China, Democrats want more resources for Indo-Pacific](#), *Reuters*, February 9, 2023 [Paywall]
- [SFRC Chairman Menendez Publishes New Report Calling for Ambitious Funding of Diplomacy Development in Indo-Pacific](#), Senate Committee on Foreign Relations, February 9, 2023
- [Young, Coons Introduce Bill to Counter Economic Coercion of Allies and Partners](#), Office of Sen. Todd Young (R-IN), February 8, 2023
- [U.S. International Trade in Goods and Services, December and Annual 2022](#), Bureau of Economic Analysis, February 7, 2023
- [What cold war? U.S. trade with China hits new high](#), *Politico*, February 7, 2023
- [U.S. companies should not continue to fuel China’s strength](#), *The Washington Times*, February 7, 2023 [Paywall]
- [U.S. firms in Taiwan making 'contingency' plans amid China tensions](#), *Reuters*, February 7, 2023 [Paywall]

2 — U.S. Trade and Tech Revamp Chugs Along, Allies Role Uncertain— 2

[In One Sentence]

- A U.S. trade official noted that most existing U.S. trade agreements fail to address supply chain resiliency concerns.
- The White House highlighted the need to build data sharing mechanisms with allies and the private sector while addressing the “supply chain crisis.”
- In defense of its commitment to ensure “robust cross-border data flows,” the Biden administration noted that the approach will also align with a worker-centric trade policy.
- The Office of the U.S. Trade Representative (USTR) aims to ensure that the Indo-Pacific Economic Framework’s (IPEF) sustainability initiative does not create more non-tariff trade barriers.

[Mark the Essentials]

- During the third round of meetings of the U.S.-Japan Partnership on Trade, the two sides discussed plans for a task force on human rights and labor standards, coordination efforts to respond to “third-country regulations” of concern with regard to the digital economy, as well as Japan’s concerns on the Inflation Reduction Act’s electric vehicle tax credit requirements.
- According to former Assistant USTR Dan Mullaney, the United States and the European Union have shared goals and overlapping interests in areas such as addressing non-market economy policies and avoiding inconsistent regulation and standards to facilitate trade, but must get specific on the exact policies and standards if concrete progress is to be made within the US-EU Trade and Technology Council (TTC).
- Both the U.S. and the EU plan to work on shared standards in electric vehicles (EV) and explore ways in which digital technologies can be used to facilitate trade at the next meeting of the Trade and Technology Council (TTC). On February 15th however, the Biden administration independently released its own EV charging standards and mandated that, come July 2024, 55% of the cost of EV charging equipment funded through the Bipartisan Infrastructure Law must feature domestically manufactured components.
- Canadian Ministers Anita Anand and François-Philippe Champagne said that Canada could play a “unique” role as the U.S. strengthens economic and supply chain resiliency, pointing to Canada’s traditional exemption from ‘Buy America’ rules, North America’s coordination with regard to semiconductor manufacturing, and Canada’s abundant critical mineral resources.

[Keeping an Eye On...]

- A U.S. trade official noted that most existing U.S. trade agreements fail to address supply chain resiliency concerns. This official is correct. U.S. trade agreements are meant to facilitate market access-based reciprocal trade liberalization; they are not intended to facilitate trade diversion by way of ‘friendshoring’, be it in the name of supply chain resiliency or ‘worker-centric’ protectionism. More fundamentally, the race to ‘friendshore’ stands in polar contrast to the existing practice of multilateral liberalization. The latter is predicated on the ‘most favored nation’ (MFN) clause, i.e., extending the same trade terms to all trading partners; the latter rests on selective preferences exchanged among friends utilizing skewed rules of origin. And although free trade agreements are an exception to the MFN principle and discriminate between insiders and outsiders, the most recent ‘friendshoring’ pact—the US, Mexico, Canada Agreement (USMCA)—was the first such agreement to actually *raise* barriers. Expect the Indo-Pacific Economic Framework for Prosperity (IPEF) to more-or-less follow in this vein. Is it any surprise, then, that USTR continues to resolutely stand

against constructive reform of the WTO's dispute settlement function? And that the national security exception has been turned into a defense of first and last recourse at the WTO by USTR? A 'friendshored' trading order stands in contrast to—and in violation of—key principles of the postwar-rules based trading system. And in which case, a number of 'friendshoring' provisions will be found to be in violation of these trade rules; the national security defense claim notwithstanding.

- Going forward, the operative question is not so much whether Washington will make an about-face and embrace conventional or MFN means of trade liberalization. Rather, the question is whether, and the extent to which, other countries in Washington's orbit will choose to restrain themselves from partaking in the benefits of 'friendshored' trade and investment policy measures that are clearly inconsistent with WTO rules. Judging by the European Union's oscillating response to the vast sums shoveled out in the Biden administration's WTO non-compliant Inflation Reduction Act (IRA), the pragmatic temptation to cut side deals and enter the charmed circle of subsidized friends is likely to be far more powerful than ideologically standing up in solitary defense of global rules. That said, that which is individually beneficial could yet at the aggregate level come to haunt the trading order systemically. The rules-based international trading system stands at an important inflection moment. And America's allies have an important role to play in helping to preserve that order. Deepening WTO-complaint trading arrangements with all interested parties on a non-bloc basis should remain an essential component of their toolkit.

[Expanded Reading]

- [US-Made Rare Earths to Skip China In Supply Deal With Japan](#), *Bloomberg*, February 22, 2023 [Paywall]
- [Joint Allied Procurement, Supply Chains a Shot to Counter China](#), *Bloomberg Law*, February 17, 2023 [Paywall]
- [CBP Expands 321 Data Pilot Participation](#), U.S. Customs and Border Protection, February 16, 2023
- [Maintaining market access for US ag goods is a priority for USTR](#), *Brownfield*, February 15, 2023
- [Constricting the Means of Production: Ally-Centric Cooperative Economic Deterrence](#), Center for Strategic and International Studies, February 14, 2023
- [Remarks by Under Secretary Marisa Lago at the 2023 Washington International Trade Conference](#), International Trade Administration, February 14, 2023
- [Day 1 Virtual: WITA Washington International Trade Conference](#), Washington International Trade Association, February 13, 2023
- [CHIPS and the Modern American Industrial Strategy](#), Stanford Institute for Economic Policy Research, February 13, 2023
- [Fostering National Security and Economic Prosperity in North America](#), Wilson Center, February 10, 2023
- [Ministers promote integration of North American defence industrial base](#), Government of Canada, February 10, 2023
- [US Seeks Critical-Mineral Pacts With Japan, UK to Curb China](#), *Bloomberg*, February 10, 2023 [Paywall]
- [FACT SHEET: The Biden Economic Plan Is Working](#), The White House, February 6, 2023
- [Readout of the Third Round of Meetings of the U.S.-Japan Partnership on Trade](#), Office of the U.S. Trade Representative, February 3, 2023
- [Supply Chain Visibility Isn't Just a Catchphrase; It's an Imperative](#), *SupplyChainBrain*, February 3, 2023
- [Supply Chain Resilience: Agencies Are Taking Steps to Expand Diplomatic Engagement and Coordinate with International Partners](#), U.S. Government Accountability Office, February 2, 2023

[Legislative Development]

- House Homeland Security Committee Chair Mark Green re-introduced a bill that will use revenues from tariffs on Chinese goods to “near-shore” manufacturing from China to the Latin America-Caribbean region.
- Senators Todd Young and Chris Coons reintroduced a bill to “equip the president with new tools” to “counter economic coercion of allies and partners” by “countries like China and Russia.”

[Hearings and Statements]

- Senate Finance Committee Chair Ron Wyden, joined by ranking member Mike Crapo and other committee members, committed to improve U.S. trade laws, modernize trade law enforcement, and expand the U.S. Customs and Border Protection (CBP)’s toolbox to address “trade cheats in China and around the world” that “evade U.S. trade laws.”
- Calling for “bold, impactful trade agreements,” Senate Finance Committee ranking member Mike Crapo said Congress will “step up and in a bipartisan fashion” if the administration continues to “take a timeout on trade.”
- House China Committee member Andy Kim said he would “push” for conversations on the economy, trade and innovation at the China Committee in addition to military, security and deterrence concerns related to Taiwan.
- House China Committee ranking member Raja Krishnamoorthi committed to “counteract the CCP’s escalating aggression,” including “its threats against Taiwan’s democracy, its weaponization of TikTok, and its theft of...American intellectual property.”
- The House China Committee has picked former staff member of the Senate Select Committee on Intelligence David Hanke as the committee’s chief of staff and former chief Republican counsel of the Senate Judiciary Committee’s privacy, technology and the law subcommittee Julissa Walsh as the committee’s general counsel.

[Expanded Reading]

- [Adults in the room? Lawmakers have high hopes for ‘serious’ China committee](#), *The Hill*, February 20, 2023
- [Ending Trade that Cheats American Workers By Modernizing Trade Laws and Enforcement, Fighting Forced Labor, Eliminating Counterfeits, and Leveling the Playing Field](#), Senate Committee on Finance, February 16, 2023
- [Day 2 In-Person: WITA Washington International Trade Conference](#), Washington International Trade Association, February 14, 2023
- [Gallagher Announces Senior Staff Hires for Select Committee on the Chinese Communist Party](#), Office of Rep. Mike Gallagher (R-WI), February 8, 2023
- [Young, Coons Introduce Bill to Counter Economic Coercion of Allies and Partners](#), Office of Sen. Todd Young (R-IN), February 8, 2023
- [S.295 - Countering Economic Coercion Act of 2023](#), Congress.gov
- [‘Everyone’s trying to row in the same direction’: Spy balloon saga tests bipartisan China committee](#), CNN, February 7, 2023
- [Rep. Green Re-Introduces Nearshoring Bill](#), Office of Rep. Mark Green (R-TN), February 1, 2023
- [H.R.722 - To decrease dependency on People’s Republic of China manufacturing and decrease migration due to lost regional economic opportunities](#), Congress.gov
- [Congressman Raja Krishnamoorthi Appointed To Serve As Ranking Member On House Select Committee On Strategic Competition Between The United States And The Chinese Communist Party](#), Office of Rep. Raja Krishnamoorthi (D-IL), February 1, 2023