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What's Been Happening

1 — Competition with China Brings New Rules and New Plans— 1

[In One Sentence]

- The Biden administration has demanded that TikTok divest its American business from Bytedance, its China-based parent, in order to address what the U.S. government sees as a potential risk to national security.
- The Commerce Department outlined its proposed “national security guardrails” to ensure that the CHIPS Act incentive program does not in any way flow to or benefit “foreign countries of concern,” including China.
- A new U.S. International Trade Commission report suggests that the U.S. Section 232 tariffs on steel and aluminum succeeded in lowering imports from China.
- The Biden administration’s fiscal year 2023 budget request includes \$50 million to “advance” the Indo-Pacific Economic Framework for Prosperity and billions more to “out-compete” China.

[Mark the Essentials]

- While the idea to divest TikTok may be a better alternative to banning, experts suggest that a new framework is needed for not just Chinese tech companies but how all technology and social media companies operate in the United States.
- The Commerce Department’s proposal would restrict any and all facility expansions in China of leading-edge chips and advanced technologies for a duration of 10 years by award recipients.
- The U.S. International Trade Commission report also suggests that both the Section 232 and 301 tariffs had a “largely negative” impact on downstream production, increasing prices on a “nearly one-to-one” basis.
- While further details of IPEF funding plans still have yet to be released, the White House budget blueprint sets out to target China “through game-changing investments in infrastructure” in the Indo-Pacific.

[Keeping an Eye On...]

- Technology competition with and selective decoupling from China continues apace. On Thursday, March 23, in a spectacle on Capitol Hill, TikTok CEO Shou Zi Chew was raked over the coals on TikTok’s privacy and data security practices as well as its ties to the Chinese Communist Party by House members from both sides of the aisle. Despite TikTok’s efforts to go “above and beyond” in working with the Biden administration to secure the data of its 100 million-plus American users, the app faces potentially a looming ban in the United States. Furthermore, the RESTRICT Act, introduced in the Senate in early March, takes aim at additional Chinese players—Tencent’s WeChat, Alibaba’s Alipay, and the increasingly popular online marketplace Temu—by granting the Commerce Department the authority to block their U.S. operations, if needed. An

anti-economic coercion bill targeting China is also in the works. Earlier in the week, on Monday, March 20, the Commerce Department listed out the proposed national security guardrails for its \$39 billion CHIPS for America incentives program for semiconductor production that is designed to ensure that its benefits do not advertently or inadvertently flow to “malign actors” such as China. The department’s proposed rules foreclose all transactions that expand manufacturing capacity in China, save for legacy semiconductors that are to be used or consumed in that country. The “significant transactions” threshold has deliberately been kept low. On the other hand, the broad “family of technologies” initially sought to be captured by National Security Advisor Jake Sullivan within the proposed outbound investment screening mechanism appears to have given way to a more nuanced and narrower approach proposed by the Treasury Department. This approach is more in keeping with Treasury’s proposed draft bill of mid-2022, the Sensitive Technologies Supply Chain Risk Management Act, that had sought to impose (merely) a reporting requirement for notifiable outbound investment transactions related to sensitive technologies. The objective was—and, again, appears to be—to better inform the U.S. government’s assessment of national security concerns arising from outbound U.S. investments before placing definitive blocks on a subset of these transactions. The technology Cold War that the Trump administration initiated and which the Biden administration has redoubled remains a work in progress. And while it might be easy to criticize some of its overreach, it is just as clear that much deliberative thought and due diligence is going into its planning and execution.

[Expanded Reading]

- [Biden and Trump agree on at least one thing: Something has to be done about TikTok. But it’s not that easy](#), *Business Insider*, March 18, 2023
- [Economic Impact of Section 232 and 301 Tariffs on U.S. Industries](#), United States International Trade Commission, March 2023
- [Certain Effects of Section 232 and 301 Tariffs Reduced Imports and Increased Prices and Production in Many U.S. Industries](#), United States International Trade Commission, March 15, 2023
- [Office of the United States Trade Representative Fiscal Year 2024 Budget](#), Executive Office of the President, March 2023
- [FACT SHEET: The President’s Budget for Fiscal Year 2024](#), The White House, March 9, 2023
- [Biden budget includes billion for Pacific islands to counter China](#), *PBS News*, March 9, 2023

2 — (So-called) U.S. Trade Agreements Gather Steam — 2

[In One Sentence]

- According to the Indonesian government, the Office of the U.S. Trade Representative will host an Indo-Pacific Economic Framework for Prosperity ministerial meeting in May; presumably in late-May.
- The U.S. and India are committed to “fast action” within their newly launched Strategic Trade Dialogue.
- In late March, the U.S.-EU Trade and Technology Council will hold a roundtable event with stakeholders to discuss ongoing trans-Atlantic conversations about digital identity.
- The Office of the U.S. Trade Representative outlined its goals for five chapters to forge a “high-ambition” trade agreement with Taiwan.
- The U.S. and the European Union have agreed to launch negotiations on an agreement to provide the bloc’s industry with access to new electric vehicle tax credits in the U.S.

[Mark the Essentials]

- The second round of IPEF negotiations in Bali, which covered all four of the framework’s pillars, ended on March 19. A third round is scheduled for early-May in Singapore.

- Amid growing concerns about the U.S. further decoupling with China, Secretary of Commerce Raimondo said that “the United States does not seek to decouple from China, nor does it seek a technological decoupling from China.”
- The U.S. and Taiwan are aiming to address “red tape” issues, smoothe regulatory practices, promote anti-corruption, support SMEs, and further labor rights protection, while lacking commitments on market access.
- European Commission President Ursula von der Leyen and President Biden also agreed in their joint statement to launch a ‘Clean Energy Incentives Dialogue’ to coordinate their respective incentives programs related to clean technologies.

[Keeping an Eye On...]

- During the week of March 13-19, at the second round of the Indo-Pacific Economic Framework (IPEF) negotiations in Bali, Indonesia, the United States Trade Representative tabled its all-important labor, environment and digital trade texts. The labor and environment texts are more-or-less expected to track their USMCA (U.S.-Mexico-Canada Agreement) predecessor; the digital trade text is being keenly watched on the other hand, given that the blindly pro-business consensus hitherto on provisions favoring Big Tech in digital trade agreements has shifted markedly on the Hill and within the Biden administration. At this time, the text is being closely held...although it is just a matter of time before key provisions get leaked or released. Earlier in the week meantime, on Tuesday, March 21, European Commission Vice-President Dombrovskis shared with EU lawmakers the “first outline, first ideas” proposed by Washington with regard to a U.S.-EU Critical Minerals Pact. The purpose of the pact is to ensure that European businesses can enjoy access to the electric vehicle tax credit incentives contained in the U.S. Inflation Reduction Act—specifically the critical minerals sourcing requirements that favor the U.S.’ FTA partners. The Critical Minerals Pact could yet be months in the making. A common thread ties the proposed IPEF agreement and the U.S.-EU Critical Minerals Pact together. Both are being packaged by USTR as an ‘FTA-type’ agreement even though neither is an FTA or FTA-equivalent, and the Biden administration plans to pass both agreements as sole executive agreements. Congress will not get an up-or-down vote on either agreement. Plainly stated, this amounts to an end-run—if not outright abuse—of Congress’ foreign commerce-related delegated powers, given that Congress enjoys the right not just to ratify trade agreements but also (presumably) the right to choose the instrument(s) through which it delegates trade authority to the executive branch and thus constitutionally regulate trade. The Biden administration is not the first administration to play faster-and-loose on trade agreement authority; the rules of origin in the Trump-era U.S.-Japan trade agreement skirted Congress’ delegated authority. Be that as it may, one facet of the executive branch’s trade policy making is becoming increasingly clearer by the day: as USTR strains to get its story straight on international trade liberalization, the violation of norms, rules and statute—both domestic and international—to jam through its alternative view of the role of trade policy is becoming a commonplace occurrence.

[Expanded Reading]

- [Indonesian official: U.S. to lead IPEF ministerial in May](#), *Inside U.S. Trade*, March 15, 2023
- [Joint Statement of India-U.S. Commercial Dialogue](#), Office of Public Affairs, U.S. Department of Commerce, March 14, 2023
- [Special Briefing Via Telephone with Gina M.Raimondo, Secretary of Commerce](#), U.S. Department of State, March 9, 2023

- [USTR Released Summaries from U.S.-Taiwan 21st Century Trade Initiative Negotiations](#), Executive Office of the President, March 16, 2023
- [U.S.-Taiwan Initiative on 21st Century Trade Summary of Texts Proposed by the U.S. Side](#), Office of the U.S. Trade Representative, March 2023

On the Hill



[Legislative Development]

- The Senate pushed four new bipartisan China bills, including the “Fighting Trade Cheats Acts,” the “Customs-Trade Partnership Against Terrorism Pilot Program Act,” the “American Innovation and Jobs Act,” as well as a currently unnamed bill that would create a ‘China Grand Strategy Commission’.
- The White House backed the bipartisan Senate “Restricting the Emergence of Security Threats that Risk Information and Communications Technology (RESTRICT) Act” and urged lawmakers to quickly send it to the President’s desk for his signing into law.

[Hearings and Statements]

- Sen. Bob Casey and Sen. Sherrod Brown urged the Biden administration to impose tariffs on solar panel component imports from countries found by the Commerce Department to be circumventing U.S. antidumping and countervailing duties on Chinese imports.
- Rep. Adrian Smith, chairman of the House Ways & Means trade subcommittee, urged his colleagues not to shy away from authorizing Trade Promotion Authority (TPA), which he regards as an important factor that provides the U.S. a stronger strategic position related to China and the ability to compete more effectively.

[Expanded Reading]

- [Tills, Brown Introduce Bipartisan Legislation to Crack Down on Trade Cheats Like China](#), Office of Senator Thom Tills, March 17, 2023
- [King, Cornyn, Kaine Will Introduce Legislation to Create a China Strategy Commission to Confront Growing Competition](#), Office of Senator Angus King, March 16, 2023
- [Statement from National Security Advisor Jake Sullivan on the Introduction of the RESTRICT Act](#), The White House, March 7, 2023