



ICAS TRADE N TECH DISPATCH

May 19, 2023

Volume 3, Issue 10

Online ISSN 2837-3863
Print ISSN 2837-3855

What's Been Happening

1 — U.S. Strives to “Out-China China” and Out-Compete it — 1

[In One Sentence]

- To counter China on the development and setting of international standards related to critical and emerging technologies, the White House plans to lead the way on digital trade agreements and negotiations.
- The Commerce Department is also considering expanding its authority to investigate subsidies provided by governments beyond their borders, potentially eyeing China's Belt and Road Initiative.
- Leaders of the G7 plan to address China's “economic coercion” practices in a joint statement.
- Meanwhile, the House Select Committee on China launched probes into four major clothing brands over their potential implication in “forced labor” practices in Xinjiang.
- China claimed that the U.S. is applying a “double standard on industrial subsidies”—accusing China of violating WTO rules through discriminatory subsidies and trade distortions even as Washington provides its own massive subsidies and incentives through measures such as the Inflation Reduction Act and the CHIPS Act.

[Mark the Essentials]

- U.S. Reps. Rosa DeLauro, Brian Fitzpatrick and Bill Pascrell recently introduced an expanded version of their outbound investment screening act. The National Critical Capabilities Defense Act of 2023 would create a “whole-of-government screening process” to broadly review private sector investment and business transactions related to “foreign adversaries like China and Russia” in “national critical capabilities sectors” to safeguard critical supply chains.
- Senate Democrats, led by Majority Leader Charles Schumer, are pushing for a new China competition bill that aims to curb the flow of advanced technology or investment to the Chinese government, increase domestic economic investment, and deepen economic and security alliances and partnerships.
- In a blog post on Washington's plan to screen outbound investment to China, Peterson Institute's Martin Chorzempa argued that such a regime must be carefully crafted, narrowly focused, and clearly defined to “avoid major unintended consequences.” Chorzempa also warned that U.S. allies would likely not join the U.S.' investment review regime and that expectations for the regime's future expansion could potentially prompt investors to flee the United States.

- Meanwhile, U.S. Ambassador to China Nicholas Burns openly criticized the latest version of China's anti-espionage law for expansively defining “acts of espionage.” Burns argued that “American businesses here ought to be free of intimidation from the government” and should not be targeted for “political differences and competitive differences in the U.S.-China relationship.”
- Business representatives and observers argue that as China’s Ministry of State Security ramps up visits, investigations and checks of American firms and businesses, the foreign business community has become increasingly concerned about the business and investment environment in China. The U.S. Chamber of Commerce has also criticized China’s anti-espionage law for “dramatically increas[ing] the uncertainties and risks of doing business” in China.

[Keeping an Eye On...]

- Noting that time was not on “our side” and that the United States needed to invest now so that it would remain “the leading superpower for generations to come,” earlier this month Senate Majority Leader Chuck Schumer previewed a new bipartisan initiative to craft a China Competition Bill in this 118th Congress. The initiative’s five key focus areas are: (i) limiting the flow of advanced technologies to China, including via additional export controls and sanctions; (ii) curtailing the flow of investment to China, including via the authorization of a screening mechanism for certain key sectors of capital outflow; (iii) securing greater domestic economic investment, particularly in areas like biotech and bio-manufacturing; (iv) underscoring the U.S.’ commitment to economic allies and partners, including by competing against China’s Belt and Road Initiative (BRI); and (v) safeguarding allies and partners, particularly Taiwan, via prescriptive sanctions measures and other policy actions that would deter China. The China Competition Bill, edition two, builds on the game-changing CHIPS & Science Act and the Inflation Reduction Act that were passed in the 117th Congress. Meanwhile at the other end of Pennsylvania Avenue, Treasury Secretary Janet Yellen was extending a hand of friendship to Beijing in a major policy speech towards the end of April. Healthy economic engagement benefitted both sides and Beijing and Washington needed to “find a way to live together and share in global prosperity,” she declared. Secretary Yellen was at pains to stress that the administration had imposed its technology denial measures for national security and not unfair economic competitiveness reasons, that it was not seeking to stifle China’s development or decouple from it, and that she looked forward to traveling to Beijing at the “appropriate time.” While all of the above might not be entirely accurate, there can be no doubt that the Biden administration seeks a refashioned *modus vivendi* with Beijing that is more in keeping with the ‘guardrails’ envisaged by Presidents Biden and Xi in Bali last November. While the executive branch is by no means done with instituting measures on the technology controls front (an executive order on outbound investment screening is awaited in the near term), it is certainly moving on a different track from the legislative branch on the China policy front. This push-and-pull between the two on China will define the contours of Washington’s management of economic relations with Beijing going into the Election 2024 cycle. The gap between the executive and legislative branches should not be exaggerated, though. The two branches might in fact be teaming-up to play a ‘good cop-bad cop’ routine. The administration lays the groundwork for economic engagement with China; Congress, meantime, legislates many of the administration’s own economic security priorities on China, ranging from an anti-economic coercion instrument, an outbound investment screening mechanism, and a jurisprudentially durable statutory framework to emasculate TikTok.

[Expanded Reading]

- [G7 struggles with response to China ‘economic coercion’ threat](#), *Al Jazeera*, May 17, 2023
- [DeLauro, Fitzpatrick, Pascrell Reintroduce Bipartisan National Critical Capabilities Defense Act](#), Office of

the U.S. Rep. Rosa DeLauro (D-CT), May 9, 2023

- [H.R.3136 - The National Critical Capabilities Defense Act of 2023](#), Congress.gov
- [Cold War through subsidies harms all](#), *ChinaDaily*, May 5, 2023
- [Even as China Reopens, Security Visits Spook Foreign Businesses](#), *The New York Times*, May 4, 2023 [Paywall]
- [FACT SHEET: Biden-Harris Administration Announces National Standards Strategy for Critical and Emerging Technology](#), The White House, May 4, 2023
- [New rules curbing U.S. investment in China will be tricky to implement](#), Peterson Institute for International Economics, May 3, 2023
- [House China committee targets top clothing brands in forced labor inquiry](#), *CNBC*, May 3, 2023
- [Crossing the Line: Transnational Subsidy](#), Center for Strategic and International Studies, January 22, 2022

2 — U.S. Settles down with Partners, Explores Pathways of Cooperation— 2

[In One Sentence]

- U.S. National Security Advisor Jake Sullivan said that the U.S. will turn its controversial domestic subsidies in the Inflation Reduction Act (IRA) “from a source of friction into a source of strength and reliability.”
- According to NSA Sullivan, the IRA is only the Biden administration’s starting point to “build a clean energy manufacturing ecosystem” in North America “and extending to Europe, Japan and elsewhere.”
- Developing country members of the Indo-Pacific Economic Framework (IPEF), such as Indonesia, are wary of Washington’s proposal that could limit data localization and their policy space for regulation in favor of relatively free cross-border flows of data.
- Ahead of the May 30 Trade and Technology Council ministerial meeting, U.S. and EU officials have planned for a critical minerals agreement to address IRA’s “frontline irritant” and further “shared goals” of boosting the two sides’ critical minerals access.
- Following the recent state visit by President Yoon Suk-yeol to Washington, South Korea announced their agreement with the U.S. on the need for “high-standard commitments across all four pillars” of IPEF.
- The U.S. said the third round of IPEF negotiations in Singapore made “strong progress on a wide range of issues” and highlighted the upcoming IPEF ministerial meeting in Detroit, Michigan on May 27 as “an important opportunity” to achieve “concrete progress as quickly as possible.”

[Mark the Essentials]

- Ahead of the third round of IPEF negotiations, the Office of Senator Elizabeth Warren again raised the issue of transparency and argued that ‘Big Tech’ is granted “special insider status” and “behind-the-scenes access” to USTR to “furtively push for rigged trade policies.” The report called for USTR to reject Big Tech’s digital trade agenda and make IPEF texts public, and for the Biden administration to commit to “transparency on all public engagement.”
- During a meeting with U.S. Secretary of Commerce Gina Raimondo, Korean Minister of Trade, Industry and Energy Lee Chang-Yang expressed the need to “reasonably resolve” the “uncertainty” and “great difficulties” that Korean businesses encounter in the face of U.S. semiconductor incentives and relevant “guardrails.” Lee also requested the “quick” enactment of “guidance” to address the “investment uncertainty” of Korean companies in light of the United States’ Inflation Reduction Act.
- Meanwhile, the U.S. and the Philippines announced new progress as the two plan to establish a Labor Working Group “to accelerate implementation of internationally recognized labor rights” and “facilitate exchange and dialogue among U.S. and Philippine governments and labor unions.”

- At a Senate hearing, U.S. Secretary of Commerce Gina Raimondo said that the U.S.-EU Trade and Technology Council is making “great progress” and will aim to work on semiconductors, export controls and new technologies. Raimondo also said that she would “think more properly” about whether it might be helpful to codify TTC agreements.

[Keeping an Eye On...]

- On May 27, the city of Detroit—currently playing host to the Asia-Pacific Economic Cooperation (APEC) Second Senior Officials’ Meeting—will play host to a ministerial meeting of the Indo-Pacific Economic Framework for Prosperity (IPEF) countries. Given that almost all APEC members are, except for India, also parties to the IPEF negotiations, the APEC ministerial is effectively doubling as an IPEF ministerial. There is prior form here on the part of the United States. In the third year (of the first term) of the previous Democratic administration, the Obama Administration too had volunteered to play the role of APEC chair, and had thereafter commandeered the APEC platform to aggressively push the Trans-Pacific Partnership (TPP) negotiations forward. The smaller TPP membership had also comprised states that were members of APEC and like IPEF’s membership excluded China. The upshot of the Obama Administration’s role as APEC chair in 2011 was to, both, suck the oxygen out of APEC’s agenda that year as well as make important progress in the TPP negotiations during the course of the year. With a U.S. presidential election looming in 2012, it was understood that the negotiating clock would effectively be put on hold at the end of the year. In the event, by the time of the APEC Honolulu Summit in November 2011, gaps still remained among the TPP parties, progress in the negotiations notwithstanding. It would not be until the third year of the second Obama Administration that the gaps finally began to close, with Japan’s Shinzo Abe courageously shouldering onerous liberalization commitments related to Tokyo’s cosseted agricultural sector. Will the past be a prologue insofar as the IPEF negotiations are concerned? It is clear that the Biden team has borrowed the Obama Administration’s APEC playbook to concentrate minds among the IPEF negotiating parties in this pre-election year. Will the completion of the IPEF negotiations nevertheless spill over to a second Biden administration (or be scrapped in its entirety by a Republican administration much like Trump summarily tore up the negotiated TPP text)? On the other hand, the substance of the IPEF negotiations bear no comparison to the depth and complexity of the TPP text (the IPEF texts on trade facilitation, good regulatory practice, and services regulation could have been completed as of yesterday). Or square-up to the level of Congressional oversight required. It was a given that Congress would get an up-or-down vote on the final product and that the TPP text would have to abide by Congress’ trade promotion authority (TPA) related strictures. As such, IPEF should be an easier agreement to close. Be that as it may, much rides on the completion of the IPEF negotiations by the time of the APEC Leaders Summit in San Francisco this November. With USTR Tai’s repeated utterances to a new type of modern trade agreement drawing more bewilderment than certitude, and with the U.S. self-marginalizing itself within the regional preferential trade liberalization circuit, a bird in hand would certainly be worth two in the bush. At worst, something—even a modest but underwhelming trade deal—is better than no deal at all.

[Expanded Reading]

- [Joint U.S. Department of Commerce and USTR Readout of Third Indo-Pacific Economic Framework Negotiating Round in Singapore](#), U.S. Department of Commerce, May 15, 2023
- [Readout of Ambassador Katherine Tai’s Meeting with European Commission Executive Vice President Valdis Dombrovskis](#), Office of the United States Trade Representative, May 9, 2023

- [Submission to IPEF Negotiators](#), American Association of the Indo-Pacific IPEF Taskforce, May 8, 2023
- [Strengthening Regional Supply Chain Resiliency Through the Indo-Pacific Economic Framework \(IPEF\)](#), Asia Society Policy Institute, May 2023
- [Sustainable trade, emerging tech to top next transatlantic summit's agenda](#), *Euractiv*, May 4, 2023
- [New Investigative Report from Senator Warren Reveals Big Tech's Insider Influence on Digital Trade Rules](#), Office of Senator Elizabeth Warren (D-Massachusetts), May 2, 2023
- [US-EU Critical Minerals Deal Would Give EU Broader Trade Relief](#), *Bloomberg*, April 28, 2023 [Paywall]
- [Top Biden Aide Says U.S. Subsidies Will Help, Not Hurt, Relationships With Allies](#), *The Wall Street Journal*, April 27, 2023 [Paywall]
- [Adoption of Joint Declaration on the 70th Anniversary of the ROK-US Alliance...Washington Declaration, Technical Dialogue, etc.](#), Yongsan Presidential Office, April 26, 2023
- [A Review of the President's Fiscal Year 2024 Funding Request for the Department of Commerce](#), hearing in front of the United States Senate Committee on Appropriations, April 26, 2023
- [IPEF Pillar 1 text summaries](#), USTR, April, 2023

On the Hill

[Legislative Developments]

- Democratic Senators are pushing for another China Competition Bill package, which will cover the establishment of an outbound investment screening mechanism as well as trade provisions related to the Generalized System of Preferences and a Miscellaneous Tariffs Bill.
- Democratic Senator Michael Bennet joined Republican Senator Bill Cassidy to co-lead legislation that would intensify U.S. trade partnerships with Western hemisphere countries to counter China's influence.
- A bipartisan pair of senators introduced a bill that calls for U.S. "leadership" to reform the World Trade Organization and ensure rules such as special and differential treatment do not benefit "globally competitive countries" such as China.
- The Senate voted 56 to 41 to approve a bill that would revoke the Biden administration's suspension of solar tariffs on Southeast Asian manufacturers which some argue have helped Chinese solar companies evade U.S. sanctions.

[Hearings and Statements]

- In a Ways & Means field hearing on securing supply chains and protecting American workers against China's practices, witnesses called for tougher implementation of the Uyghur Forced Labor Prevention Act, increased Section 301 tariffs on China, and for increasing the *de minimis* tariff exception bar.
- Concerned that multinational giants might not do enough to implement the Uyghur Forced Labor Prevention Act, leaders of the House Select Committee on China have written to companies such as Nike, Adidas, Shein and Temu to scrutinize their supply chain's involvement with China's Xinjiang region.
- Arguing that USTR is granting 'Big Tech' "special insider status" to IPEF negotiations, the Office of Senator Elizabeth Warren called for transparency in IPEF and other trade negotiations.
- Highlighting Ford's plan to work with Chinese company Zhejiang Huayou Cobalt Company and Brazilian-owned Indonesian company Vale to establish a nickel processing plant in Indonesia, Senator Marco

Rubio urged U.S. officials to investigate the joint venture, verify Ford’s compliance with U.S. laws, and hold Ford “accountable.”

[Expanded Reading]

- [Field Hearing on Trade in America: Securing Supply Chains and Protecting the American Worker – Staten Island](#), Hearing in front of the House Ways and Means Committee, May 9, 2023
- [Thune, King Introduce Bipartisan Resolution to Confront China’s Exploitation of WTO Trade Status](#), Office of Senator John Thune (R-South Dakota), May 9, 2023
- [S.Res.202 - A resolution expressing the sense of the Senate that the United States must continue to demonstrate leadership to achieve significant reforms to the rules of the World Trade Organization in order to promote the advancement of truly developing countries](#), Congress.gov
- [US Senate repeals solar panel tariff suspension, Biden expected to veto](#), Reuters, May 4, 2023
- [Leader Schumer Launches Initiative To Advance National Security And Create China Competition Bill 2.0](#), Senate Democrats, May 3, 2023
- [New legislation to counter China pushed by Senate Democrats](#), Associated Press, May 3, 2023
- [Bennet Joins Landmark Americas Act to Expand Partnerships Across the Western Hemisphere](#), Office of Senator Michael Bennet (D-Colorado), May 3, 2023
- [US Senator Rubio seeks probe of Ford's Chinese partnership on nickel plant](#), Reuters, May 3, 2023
- [Gallagher, Krishnamoorthi Send Letters on Forced Labor Concerns to Nike, Adidas, Shein, Temu](#), House Select Committee on the CCP, May 3, 2023
- [Nike, Adidas, Shein, Temu Sent Letter From House China Committee About Forced Labor](#), Forbes, May 2, 2023
- [New Investigative Report from Senator Warren Reveals Big Tech’s Insider Influence on Digital Trade Rules](#), Office of Senator Elizabeth Warren (D-Massachusetts), May 2, 2023