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What's Been Happening

1 — As U.S. and China Reestablish Communication, Challenges Remain — 1**[In One Sentence]**

- Former U.S. National Security Advisor and Secretary of State Henry Kissinger traveled to China once again last week. While the State Department was quick to relegate the visit as an unofficial visit by a “private citizen,” President Xi Jinping welcomed Kissinger as an ‘old friend’ of China and used the visit to underscore the need for “mutual respect, peaceful coexistence and win-win cooperation” in the U.S.-China relationship.
- Xi renewed calls to liberalize the Chinese economy into a “higher-level open economy” at a meeting of the Central Commission for Deepening Reform amid “a complex and severe international situation.”
- The U.S. Chamber of Commerce released an essay urging the Biden administration to forgo attacks on trade *writ large* in the name of national security and called instead for more targeted measures.
- The Senate unanimously passed a bill last week to formalize the Biden administration’s trade pact with Taiwan and lay out procedures for continued negotiation and oversight.
- U.S. Trade Representative Katherine Tai told the Senate Finance Committee that she expects the mandated four-year review of the administration’s Section 301 tariffs on Chinese goods to be completed this fall, and she defended the tariffs as having successfully reduced U.S. imports from China.

[Mark the Essentials]

- Commentators have observed a “striking” contrast between Beijing’s warm welcome of Kissinger and cooler reactions to the recent visits of three high-level Biden administration officials. Expressing high regards for Kissinger, Chinese President Xi said that China-U.S. relations “will always be linked with the name of Henry Kissinger.” During the meeting, Kissinger said “it is imperative to maintain the principles established by the Shanghai Communique, appreciate the utmost importance China attaches to the one-China principle, and move the relationship in a positive direction,” while Xi said “China is willing to discuss with the U.S. side the right way for the two countries to get along.”
- According to U.S. Chamber of Commerce President and CEO Suzanne Clark, the Biden administration’s proposed “modern industrial and innovation strategy” is a “fallacy” as it seeks to undermine “the bipartisan consensus on trade” which has delivered growth and progress to the United States. While sharing the administration’s concerns about China, Clark called on the administration to “safeguard U.S. national

security with appropriately scoped and targeted measures” as opposed to “railing at trade” and its side benefits (e.g., efficiency and lower costs) that actually stimulates U.S. competitiveness and innovation. U.S. Trade Representative Katherine Tai and National Security Advisor Jake Sullivan have recently advocated for a “unapologetically positive vision” that shifts from trade liberalization to worker protection and high standards.

- In addition to providing congressional approval for the U.S.-Taiwan trade pact, the Taiwan trade bill also directs the Office of the U.S. Trade Representative to ensure “robust” congressional consultation and transparency with regard to any further agreement with Taiwan, including by promptly providing negotiating texts prepared by both sides. The administration has argued that the Taiwan trade pact does not require congressional approval, while lawmakers from both parties have contended that congressional approval is a must for the Taiwan deal as well as similar initiatives such as the Indo-Pacific Economic Framework for Prosperity. Commentators and legal experts have similarly raised concerns about the problem of authority concerning trade policy and trade-related deals between the administration and Congress both on the Taiwan trade pact and in broader contexts.
- A number of lawmakers have expressed support for the Section 301 tariffs in general, but have argued that additional and more transparent exclusion processes are warranted to protect U.S. consumers and businesses and prevent U.S. importers from bearing the majority, if not nearly the full cost of the tariffs. In response, Tai argued that the tariffs are not necessarily linked to rising consumer prices and have led to outcomes “consistent with” U.S. objectives such as reducing the value of certain U.S. imports. Tai said that USTR is reviewing the overall structure and effectiveness of the tariffs, consulting public views and “continues to consider additional exclusion processes, as warranted.”

[Keeping an Eye On...]

- The issuance of the Shanghai Communique in February 1972 was a pivotal moment in U.S.-China relations. For the United States, the fundamental strategic calculus that underpinned its China rapprochement was, if Moscow and Beijing were more afraid of each other than they were of Washington, that fear would present an unprecedented opportunity for American Cold War diplomacy. Improved U.S.-China relations became the key to the Nixon administration’s strategy to modify Soviet conduct. For China, the calculus was simpler: to deny Moscow the attempt to geopolitically encircle China and dominate continental Asia. The Communique thus laid the groundwork for a tacit U.S.-China alignment to counter Soviet expansionism in Asia. Today, that premise no longer holds; Russia is now the balancing power in the U.S.-China equation. The political drivers that facilitated the rapprochement are also inapplicable today. At the time, both countries were facing domestic frailty. Regime disunity following Lin Biao’s death and the cultural revolution’s disruption weighed on Mao Zedong and Zhou Enlai. The Vietnam quagmire and inflationary pressure from the fraying gold-dollar link, as well as the Great Society programs, weighed on Nixon and Kissinger. Today, neither country feels its back against the wall in the same way. That said, the Shanghai Communique remains relevant to the 21st-century era of US–China strategic competition. In Shanghai, the two sides had trained their focus on the big picture and were not shy to memorialize their differences. No effort was made to mask the divergent stances on Japan, Korea, Taiwan and Indochina. But also, no effort was spared to situate these divergent perspectives within a broader framework of stable and peaceable coexistence. At a time when U.S.-China relations are suffering due to the privileging of the ‘extreme competition’ tendencies in the bilateral relationship, the Communique provides an object lesson in the constructive management of differences. The juxtaposing of divergent policy positions within a steadying

framework could yet create a balance between the goals pursued by Washington and Beijing and the requirements of the Asian and international systems at large. In his famous treatise of European peacemaking in the wake of the Napoleonic Wars, Henry Kissinger observed that the essence of wise international relations was the transformation of force into reciprocal obligation (i.e., agreements) by identifying a legitimizing principle of order based on a loose consensus on the nature of justice in the international system. The U.S. and China must commit to a refashioned relationship founded on these precepts—one that keeps tensions within a manageable range, prioritizes stability and coexistence, encourages communication, and privileges a constructive working relationship in areas of common interest without trampling on the other party’s system, values, and regional commitments. Kissinger will not be there to sculpt the consensus this time. Which begs the question: Is there a successor waiting in the wings?

[Expanded Reading]

- [‘Erroneous’ China Tariff Ruling Called into Question](#), *Sourcing Journal*, July 25, 2023 [Paywall]
- [US-Taiwan trade pact key to countering diplomatic isolation, Taipei’s top trade negotiator says](#), *CNN Business*, July 24, 2023
- [Why Kissinger Went to China — Again](#), *Politico*, July 22, 2023
- [USTR Tai calls U.S. tariffs on Chinese goods ‘significant’ leverage](#), *Reuters*, June 22, 2023 [Paywall]
- [China’s Xi gets nostalgic with ‘old friend’ Kissinger](#), *Reuters*, July 21, 2023
- [White House regrets Kissinger had better access in Beijing than current US officials](#), *Reuters*, July 21, 2023 [Paywall]
- [Trade Keeps Delivering for America](#), U.S. Chamber of Commerce, July 17, 2023
- [Xi stresses establishing new systems for higher-level open economy](#), *ChinaDaily*, July 12, 2023
- [Yellen raised China’s hopes for tariff cut; U.S. politics will crush them](#), *Reuters*, July 12, 2023 [Paywall]
- [Xi Calls for More Economic Opening, Trade as Recovery Falters](#), *Bloomberg*, July 11, 2023 [Paywall]
- [The New U.S.-Taiwan Trade Agreement and Its Approval](#), *Lawfare*, July 5, 2023
- [Taiwan boosts economic diplomacy despite Chinese pressure](#), *Responsible Statecraft*, July 3, 2023

2 — Supply Chain De-Risking and Data Dominate World Economy Agenda— 2

[In One Sentence]

- The European Commission adopted its adequacy decision for the EU-U.S. Data Privacy Framework on July 10, concluding that the United States ensures an ‘adequate’ level of protection for personal data transferred from the EU to U.S. companies participating in the Data Privacy Framework.
- China submitted a proposal for adoption at the World Trade Organization’s 13th ministerial conference calling for member states to cooperate on supply chains through provisions like trade facilitation, green technology adoption, incentivizing “key industries” and lifting extant COVID-19 restrictions.
- The member states of the European Union gave their permission to the Commission to proceed with its negotiation of a critical minerals deal with the U.S. to allow European firms to qualify for tax incentives under the Inflation Reduction Act; both sides are eyeing the deal’s completion by the end of the year.
- The fourth negotiating round of the Indo-Pacific Economic Forum concluded in mid-July with negotiators hailing progress—specifically in working out the legal details of the agreement on the supply chain pillar—and hoping to announce concrete agreements before the Asia-Pacific Economic Cooperation leaders’ summit in San Francisco this November.

- Australia’s ambassador to the U.S. Kevin Rudd called on IPEF members to not write off the framework for its lack of market access provisions but, rather, to work towards a balance between trade liberalization and “appropriate protections” through measures like a “digital trade rule set.”

[Mark the Essentials]

- Although both U.S. and EU officials expressed optimism about the transatlantic dispute over data flows and the establishment of a new EU-U.S. Data Privacy Framework, privacy activists argued that the United States’ existing data practices—including federal data protection mechanisms and the intelligence agencies’ access to data—may not fully meet the required legal standards set by the European Court of Justice. The European Commission recently determined that the U.S. data practices were adequate, but some are planning to challenge the transatlantic data arrangement in court soon.
- U.S. Trade Representative Katherine Tai reiterated her commitment to finalize the U.S.-EU steel and aluminum agreement by October, emphasizing “transatlantic climate priorities” and the need to “address non-market excess capacity in the industry.” EU officials were reportedly pessimistic about the October deadline in April due to the two sides’ diverging approach: The U.S. initially proposed a tiered tariff regime that would “ultimately supersede” EU’s Carbon Border Adjustment Mechanism, “at least on a bilateral basis,” while Europe focused on “permanently” removing U.S. tariffs on EU steel and aluminum products.
- Indonesia, supported by seven Southeast Asian countries and Australia, proposed to include market access provisions on critical minerals in the Indo-Pacific Economic Framework. Under the recently passed Inflation Reduction Act (IRA), countries that don’t have “free trade agreements” with the United States could receive unfavorable treatments as the United States issues tax incentives to electric vehicles.
- A key European lawmaker is calling for new EU tariffs on U.S. hydrogen, arguing that the United States’ recent laws—including the Inflation Reduction Act and Infrastructure Investment and Jobs Act—provide massive, long-term subsidies to lower the price of U.S. hydrogen exports significantly below EU market price. According to Bernd Lange, head of the European Parliament Committee on International Trade, these U.S. subsidies are illegal within the WTO framework and should be addressed with anti-dumping measures and tariffs, “just as we do with China and also with products and services from state-owned enterprises.”

[Keeping an Eye On...]

- The U.S.-EU Trade and Technology Council (TTC) was inaugurated with much fanfare in Pittsburgh in September 2021. In terms of delivery, it has turned out to be much less than what it was cracked up to be. It is a measure of this underperformance that a seasoned observer of transatlantic ties—Stuart Eizenstat, a former U.S. ambassador to Brussels—is now calling for the establishment of a new comprehensive framework between the U.S. and the EU that “weatherproofs the transatlantic relationship against the political turmoil” on the horizon. A reformulated transatlantic free trade and investment initiative that creates a tariff-free common marketplace within 10 years is one of six proposed suggestions. In the meantime, Washington and Brussels face a moment of reckoning within their TTC framework. The two sides appear no closer to stitching up a bilateral high-standards deal on sustainable steel and aluminum—an essential requirement if the two sides are to transcend their tariff dispute dating back to the Trump administration’s Section 232 national security steel and aluminum levies. The U.S. side would prefer to write WTO-inconsistent follow-on rules that protect electorally critical mills in the American Midwest while freezing China out of future multilateral arrangements on steel and aluminum. Brussels, on the other hand, might happily partake of the benefits of WTO-inconsistent measures introduced by Washington, such as the Inflation Reduction Act’s electric vehicle

subsidies, but it is unwilling to be the author of such WTO-inconsistent rules. Besides, it would not like to undercut the framework of its own carbon border adjustment mechanism which is due to enter into force in its transitional phase in October 2023. Separately, in the area of data flows in late-June, the Biden administration issued its updated intelligence community oversight procedures to pave the way for implementation of the EU-US Data Privacy Framework. The ball is now in Europe's court with the European Commission adopting its 'adequacy' decision on July 10. It is not clear though that the new Data Privacy Framework will judicially surmount the key objection that slayed its predecessor, Privacy Shield, at the European Court of Justice in July 2020. While the second layer of the redress mechanism in the Data Privacy Framework—an independent Data Protection Review Court which would allow EU subjects to challenge unlawful U.S. surveillance practices—is an improvement on Privacy Shield, the overall redress process still insufficiently lacks autonomy from United States executive branch processes. On cross-border data flows as on trade and investment ties, the U.S. and Europe are approaching an important inflection point later this year. A more internationalist-minded administration in Washington notwithstanding, some of the gaps between the two sides remain large and persistent. The two sides differ on much more than merely on approaches with regard to China.

[Expanded Reading]

- [Wanted: a new framework for US-EU relations](#), *Financial Times*, July 30, 2023 [Paywall]
- [Europe Avoids China's Belt and Road Forum, Keeping a Distance From Xi and Putin](#), *The Wall Street Journal*, July 28, 2023 [Paywall]
- [Incremental Progress Made in Fourth IPEF Round, Still a Ways to Go](#), Center for Strategic and International Studies, July 20, 2023
- [Trade with the United States: Council authorises negotiations on EU-US Critical Minerals Agreement](#), Council of the European Union, July 20, 2023
- [Statement by Executive Vice-President Dombrovskis at the ECON Committee of the European Parliament on the EU's reaction to the US Inflation Reduction Act \(IRA\)](#), European Commission, July 18, 2023
- [Joint USTR and U.S. Department of Commerce Readout of Fourth Indo-Pacific Economic Framework Negotiating Round in South Korea](#), Office of the U.S. Trade Representative, July 18, 2023
- [Dueling trade pacts put pressure on Washington](#), *Politico*, July 17, 2023
- [Divisive China, Taiwan bids to join Pacific trade pact in focus at meet](#), *Reuters*, July 14, 2023 [Paywall]
- [Directives for negotiations with the United States of America for an agreement on strengthening supply chains for critical minerals](#), Council of the European Union, July 13, 2023
- [Strengthening the Resilience and Stability of Global Industrial and Supply Chains](#), World Trade Organization, July 12, 2023
- [US should reach minerals deal with EU this year, official says](#), *Euractiv*, July 11, 2023
- [Questions & Answers: EU-US Data Privacy Framework](#), European Commission, July 10, 2023
- [The Case for a US Digital Trade Deal in IPEF – and Why It's an Uphill Battle](#), *The Diplomat*, June 5, 2023

On the Hill

[Legislative Developments]

- A bipartisan group of lawmakers reintroduced a bill to enhance long-term U.S. foreign policy engagements in and trade ties with the Pacific Islands.

- The Senate unanimously passed a bill that approves the initial trade agreement under the U.S.-Taiwan Initiative on 21st Century Trade and requires further congressional consultation for future deals. The bill has been sent to the White House.
- The Senate Foreign Relations Committee voted to proceed with legislative provisions that highlight the importance of the U.S.-EU Trade and Technology Council and require regular updates from the Department of State.
- The Senate voted unanimously to pass a bill to establish an expedited customs process for “trusted trading partners,” sending the bill over to the House.
- Senator Bob Casey is reportedly pressing to include outbound investment screening provisions in the annual National Defense Authorization Act.

[Hearings and Statements]

- A coalition of nearly 100 centrist Democrats have called on the Biden administration to pursue free trade deals with Britain, Kenya and Taiwan and to establish a more inclusive and transparent exclusion process for Section 301 tariffs.
- A bipartisan group of House lawmakers have urged the Ways and Means Committee to renew the Generalized System of Preferences, arguing that the move is essential for reducing U.S. reliance on China.
- House Foreign Affairs Committee Chair Michael McCaul subpoenaed Secretary of State Antony Blinken, demanding that the Department of State release documents related to its alleged pushback against the administration’s use of export controls and sanctions following the balloon incident.
- In a “field hearing” in Minnesota, 16 members of the House Ways & Means Committee emphasized the need to ensure enforcement of existing and new trade agreements as the United States seeks to “open up better markets” for American farmers.

[Expanded Reading]

- [Senators look to undo jurisdictional snag on Taiwan tax bill](#), *Roll Call*, July 26, 2023
- [Cornyn, Carper Bill to Strengthen Cross-Border Trade, Guard Against Terrorism Passes Senate](#), Office of Senator John Cornyn (R-Texas), July 19, 2023
- [New Dems Unveil Economic Opportunity Agenda to Continue Lowering Costs, Fighting Inflation, and Growing the Middle Class](#), New Democrat Coalition, July 18, 2023
- [Senate Finance Committee Leaders Praise Passage of Bill to Approve Taiwan Trade Agreement](#), U.S. Senate Committee on Finance, July 18, 2023
- [SFRC Advances Department of State Authorization Act, Shaheen Priorities Clear Key Committee Hurdle](#), Office of Senator Jeanne Shaheen (D-New Hampshire), July 13, 2023
- [S.2043 - Department of State Authorization Act of 2023](#), Congress.gov
- [H.R.4004 - United States-Taiwan Initiative on 21st-Century Trade First Agreement Implementation Act](#), Congress.gov
- [Case Leads Re-Introduction Of Next Generation Framework For United States Policy In The Pacific Islands](#), Office of Congressman Ed Case (D-Hawaii), July 12, 2023
- [H.R. 4538 - BLUE Pacific Act](#), Congress.gov
- [66 House Members support GSP renewal, including “smart changes to make GSP countries more viable alternatives to China”](#), Coalition for GSP, July 12, 2023
- [McCaul Subpoenas State for Key China-Related Documents](#), House Foreign Affairs Committee, July 12, 2023
- [Field Hearing on Trade in America: Agriculture and Critical Supply Chains – Kimball, Minnesota](#), House Ways and Means Committee, July 10, 2023