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What's Been Happening

1 — Will AI be an Opportunity or a New Battlefield for U.S. & China? — 1

[In One Sentence]

- China introduced new rules to regulate generative artificial intelligence (AI) to encourage creativity while laying out mechanisms for the state to evaluate and register certain new algorithms.
- Following a White House announcement of several voluntary, self-regulatory commitments by American tech companies working on AI, U.S. Secretaries of State and Commerce Antony Blinken and Gina Raimondo called for democratic nations to internationalize this regulatory approach through bodies like the G7 and the U.S.-EU Trade and Technology Council.
- The State Department's Ambassador-at-Large for Cyberspace and Digital Policy, Nathaniel Fick, told the press that AI is an issue that "transcends political systems" and suggested that global governance will be an uphill battle despite productive dialogue thus far among U.S. partners.

[Mark the Essentials]

- China's Interim Measures for the Management of Generative Artificial Intelligence Services, set to come into effect on August 15, will encourage the creative application of generative AI across all sectors and industries; obligate AI providers to protect personal information and guide rational, responsible use; and require certain public-facing AI services to conduct security assessment and register its algorithm.
- Aiming to ensure that AI governance aligns with democratic values, Blinken and Raimondo laid out plans to advance AI laws and regulations domestically and to develop international standards and regulatory principles (e.g. an international code of conduct through G7-led action and through further coordination with allies and partners).
- Considering AI as a "fundamentally global" issue, Ambassador Fick called for "global consensus" and "a broad multilateral approach" to AI governance coordination. Meanwhile, Fick also acknowledged a constant tension between "national approaches and international harmonization" as U.S. partners and others develop their own AI rules and regulations.

[Keeping an Eye On...]

- In mid-July, China's cyberspace regulator, the Cyberspace Administration of China (CAC), issued interim rules on AI-generated content (AIGC) services, such as ChatGPT. The rules are an improvement over the

overly stringent draft regulations released in April which had obliged businesses to guarantee the authenticity, accuracy, objectivity and diversity of their AI training data. Pre-market licensing requirements have been dropped as well. Meanwhile, earlier this week the Biden administration released its long-awaited executive order on establishing an outbound investment screening mechanism for certain national security technologies and products. U.S. investments in Chinese entities engaged in activities related to software that incorporates an AI system and is designed for certain end-uses is to be subject to a notification requirement. The proposed AI-linked end uses are: cybersecurity applications, digital forensics tools, and penetration testing tools; the control of robotic systems; surreptitious listening devices that can intercept live conversations without the consent of the parties involved; non-cooperative location tracking (including international mobile subscriber identity (IMSI) Catchers and automatic license plate readers); and facial recognition. The outbound investment screening order comes at a time when China's internet giants—Baidu, ByteDance, Tencent, and Alibaba—are known to be scooping up vast quantities of high-performance AI chips prior to an expected U.S. Commerce Department embargo on these chips. Clearly, policymakers and businesses on both sides of the Pacific understand the vast potential for economic competitiveness and broad-based growth utilizing novel AI applications featuring large language models. Equally, both sides are aware that such applications could unleash a new set of risks, the scope of which is far from clear given that AI's development is still at an embryonic stage. In mid-July, the White House secured voluntary commitments from seven leading AI companies—Amazon, Anthropic, Google, Inflection, Meta, Microsoft, and OpenAI—with a view to securing safe and transparent development of AI technology. And earlier last May, the United States and the European Union issued a first Joint Roadmap on Evaluation and Measurement Tools for Trustworthy AI and Risk Management (AI Roadmap) with a view to harmonizing transatlantic risk-based approaches on AI as well as identifying relevant AI-related standards of mutual interest. Given the important stakes involved, the multi-billion-dollar question, going forward, is this: Can the United States and China in conjunction with the European Union cooperatively craft a rules-based multilateral framework for the responsible development of AI technology and related practices, or is China and a 'like-minded' coalition of Western parties fated to go their separate ways? When Commerce Secretary Gina Raimondo visits Beijing later this summer, rulemaking on AI should be an important item near the top of the discussion agenda.

[Expanded Reading]

- [U.S. Investments in Certain National Security Technologies and Products in Countries of Concern](#), Federal Register, August 9, 2023.
- [The Download: China's digital currency ambitions, and US AI rules](#), MIT Technology Review, August 4, 2023
- [AI companies try to self-regulate](#), Politico, August 2, 2023
- [US-EU AI Code of Conduct: First Step Towards Transatlantic Pillar of Global AI Governance?](#), Euractiv, July 27, 2023
- [Special Online Briefing with Nathaniel C. Fick Ambassador-at-Large for Cyberspace and Digital Policy and Dr. Seth Center Deputy Envoy for Critical and Emerging Technology](#), U.S. Department of State, July 26, 2023
- [Antony Blinken & Gina Raimondo: To shape the future of AI, we must act quickly](#), Financial Times, July 24, 2023 [Paywall]
- [How Does China's Approach To AI Regulation Differ From The US And EU?](#), Forbes, July 18, 2023 [Paywall]
- [China takes major step in regulating generative AI services like ChatGPT](#), CNN Business, July 14, 2023
- [Exploring institutions for global AI governance](#), Google DeepMind, July 11, 2023
- [Ensuring Safe, Secure, and Trustworthy AI](#), The White House, January 21, 2023

2 — Updates on Strengthening Supply Chain Resiliency — 2

[In One Sentence]

- The Biden administration banned imports from four further Chinese firms and added them to a blacklist under the Uyghur Forced Labor Prevention Act, which has halted US\$1.3 billion worth of goods to date.
- The Senate Commerce Committee advanced the “Country of Origin Labeling Online Act” which would require e-commerce listings to include the product’s country of origin.
- The State Department announced partnerships with Panama and Costa Rica to expand and diversify semiconductor supply chains.
- President Biden signed an executive order on research and development, with a view to ensuring that critical and emerging technologies developed with federal funding are, both, brought to market expeditiously as well as manufactured domestically.

[Mark the Essentials]

- In a recent letter to U.S. Secretary of Commerce Gina Raimondo, leaders of the House China Committee lauded the department’s “landmark rule” that restricts exports of advanced semiconductors and equipment to China but urged further tightening of the rules and enforcement measures out of concern that “PRC technology firms have identified workarounds to evade the export control rules.”
- Responding to the recent introduction of the Level the Playing Field 2.0 Act, a broad coalition of agricultural and industry groups have warned that the bill’s “far-reaching changes to technical trade remedy rules” would “benefit a handful of domestic interests at the expense of all other sectors of the economy, especially downstream purchasers of primary industrial inputs.”
- The new federal R&D executive order encourages domestic production of inventions developed using federal funds and “encourages potential recipients of Federal funding to build domestic manufacturing into their long-term planning to commercialize their inventions.”

[Keeping an Eye On...]

- In late-July, the Biden administration issued yet another executive order (EO) to support research and development in support of domestic manufacturing and employment. It would be a mistake however to glaze over the contents of the EO as another futile attempt to juice manufacturing employment in electorally important Rust Belt states. On the contrary, the Biden administration deserves credit for disregarding the naysayers and sticking with its activist ‘industrial policy’ stance. Over the past two years, the administration has expanded productive capacity in key strategic and high value-added manufacturing sectors, employing authorities under the Defense Production Act. It has catalyzed private capital in advanced manufacturing via supportive business and consumer-facing federal tax credits as well as through matching federal cost-share grants and loans. It has extended federal procurement preferences to ‘critical products’, employing authorities under the Buy American Act. And it has leveraged federally funded innovation to incentivize public-private diffusion of chosen manufacturing technologies, employing authorities under the Bayh-Dole Act. The Bayh-Dole Act in particular—technically the Patent and Trademark Law Amendments Act of 1980—was a remarkable legislative initiative which loosened the conditions under which contractors/researchers could acquire and retain ownership of inventions created with federal funding. It shifted the delicate patent rights-related balance in favor of the contractor or researcher, favoring in particular non-profit organizations, university research labs and small business contractors. As an exception to the Act’s provisions, Bayh-Dole also contains an “exceptional circumstances” clause that allows the federal government to exert greater

ownership of the underlying intellectual property (IP) so long as “exceptional [public interest] circumstances” warrant a restriction of the contractor’s or researcher’s right to retain title to the relevant federally funded subject invention. The late-July EO widens the “exceptional circumstances” criteria for a host of critical and emerging technologies (energy storage; quantum information science; AI and machine learning; semiconductors and microelectronics; and advanced manufacturing), including via an evaluation of whether circumstances exist to mandatorily warrant the manufacture of the subject invention “substantially in the United States.” Relevant criteria to waive the “manufactured substantially in the United States” requirement in favor of overseas “locations that maintain a market economy” are also spelt out in the EO. Bayh-Dole and its “exceptional circumstances” clause has been the key policy enabler of the U.S.’ unparalleled innovation ecosystem featuring world class universities, federal laboratories, and technology incubators, supported in part by federal taxpayer dollars. For a country like China that is wrestling with the challenge of bridging the technology development disconnect between public research institutions and private Chinese companies, Bayh-Dole offers a veritable playbook for public-private commercialization of government-funded research and the incubation of new industries and applications at an expedited pace.

[Expanded Reading]

- [US Widens Blacklist of China-Based Firms Over Uyghur Forced Labor Concerns](#), *Voice of America*, August 1, 2023
- [President Biden Delivers Remarks on Bidenomics](#), The White House, July 28, 2023
- [Letter to Secretary Raimondo on Strengthening Export Controls to Maintain "Technological Edge" Over Chinese Military](#), The Select Committee on the CCP, July 28, 2023
- [Coalition Letter on S. 1856 / H.R. 3882, the "Leveling the Playing Field 2.0 Act,"](#) U.S. Chamber of Commerce, July 27, 2023
- [New Partnership with Panama to Explore Semiconductor Supply-Chain Opportunities](#), U.S. Department of State, July 20, 2023
- [Partnership with Costa Rica to Explore Semiconductor Supply Chain Opportunities](#), U.S. Embassy in Costa Rica, July 14, 2023

3 — Multilateral Trade Needs to be Reformed: But How? — 3

[In One Sentence]

- World Trade Organization (WTO) Director-General Okonjo-Iweala expects that an upcoming meeting of senior officials in October will help boost success for WTO’s 13th Ministerial Conference in February 2024.
- The 2023 WTO ‘World Trade Statistical Review’ has cautioned against “numerous” risks from geopolitical tensions to potential financial instability that could affect the medium-term outlook for global trade but also indicates positive contributions and the potential of trade, especially with respect to digital services.
- The United States is co-sponsoring a proposal to increase government and non-government access to WTO documents, among other efforts to reform the WTO.
- On the plurilateral front, Commerce Secretary Raimondo has suggested that the Indo-Pacific Economic Framework (IPEF) will ensure enforceability as members who fail to keep their commitments will lose their (unspecified) IPEF benefits.

[Mark the Essentials]

- Warning against a “comeback” of industrial policies, WTO Deputy Director-General Anabel González called for international cooperation to address “spillover effects” such as subsidy-led trade distortions and prevent further escalation into a potential subsidy race.
- U.S. Ambassador to the WTO María Pagán said that the United States will on occasion try to substitute pre-prepared long statements with real-time responses, as part of U.S. efforts to endow less formality to WTO reform discussions and thereby ensure that WTO members do not talk past each other.
- Outside analysts such as the Center for Strategic and International Studies’s Matthew Goodman have expressed concerns about the “durability” of IPEF in case of a change in government given IPEF’s current status as an executive branch initiative. To address this issue, Goodman suggests greater involvement of Congress and formal commitment to trade arrangements in the Indo-Pacific region.

[Keeping an Eye On...]

- Hopes are being pinned that the WTO’s upcoming 13th Ministerial Conference (MC13) in Abu Dhabi, UAE, in February 2024 will deliver a reform package that will resuscitate the flailing multilateral trading system. Sad to say, these hopes are wildly exaggerated. On both the dispute settlement front as well as on the negotiation front, there is unlikely to be any significant progress in the months ahead. In September, WTO delegates are due to begin drafting a dispute settlement reform text. Given the U.S.’ unchanged stance, as expressed in an early-July communication, that the WTO’s dispute settlement system “cannot be a forum for debating and deciding on the essential security interests of Members”, it would appear to be pointless to even conduct a discussion in this regard—let alone, begin drafting a reform text. As for building out the WTO’s negotiating function, lower order deliverables such as the 2021 deal on services domestic regulation as well as on investment facilitation are about the best that can be achieved. Materially important agreements, such as reining-in the gusher of trade-distorting agricultural subsidies or, for the matter, drawing up an aggressive arrangement for free trade in environmental goods, appear to be beyond the realm of the possible. Come to think of it, the case for a multilateral agreement on environmental goods and services that expedites the green transition should be a no-brainer. Eliminating tariffs on solar panels, battery technologies, and electric vehicles as well as on services such as wastewater treatment could go a long way to dealing with the existential challenge of climate change. Yet rather than engage in the free flow of win-win cross-border exchanges, countries are utilizing trade defense instruments, export restrictions, and non-conforming industrial policies to fragment the global supply chain for green products. The WTO will continue to lumber on for want of a better substitute. That it can fulfill its deliberative, negotiating and dispute settlement functions in this age of populism, creeping economic nationalism, and outright protectionism is far-fetched however, to say the least. When deliberations resume in Geneva in September on the MC13 roadmap, expect lots of aspirational talk but little by way of concrete developments.

[Expanded Reading]

- [The U.S. Is Missing The APEC Opportunity](#), *Forbes*, August 7, 2023 [Paywall]
- [IPEF and the Durability of Policy Initiatives](#), Center for Strategic and International Studies, July 31, 2023
- [Wheels Turning On WTO Dispute Resolution Talks](#), *Barron’s*, July 28, 2023 [Paywall]
- [Members examine “road map” for MC13 on the WTO’s reform of its deliberative function](#), World Trade Organization, July 25, 2023
- [WTO seeks fix to ruptured dispute settlement process](#), *Politico*, July 24, 2023

[Legislative Developments]

- The Senate voted to pass Senators Bob Casey and John Cornyn's bill which would require notification for outbound investments in critical industries related to China and other countries of concern.
- A bipartisan pair of Senators introduced a bill to require the Office of the U.S. Trade Representative to conduct an annual report on China's industrial subsidies.
- Several House Republicans are considering a bill that would prohibit the Commerce Department from removing the Chinese Ministry of Public Security's Institute of Forensic Science from the Entity List. China has reportedly demanded the removal as part of bilateral working group talks on fentanyl coordination.

[Hearings and Statements]

- At a hearing on the Biden administration's China strategy, House Select Committee on the Chinese Communist Party Chair Mike Gallagher criticized the Biden administration's approach to China since the balloon incident, expressing concerns about "the push for high-level engagement" "at the cost of defending ourselves from CCP aggression" and vowed to conduct oversight.
- Democratic lawmakers at the House China committee have called for more funding and investment into U.S. science and research to compete with China.
- The House China committee is investigating BlackRock and MSCI's Chinese investments, arguing that their allocations unwittingly lead Americans to fund "PRC companies that develop and build weapons for the People's Liberation Army" and "advance the CCP's stated mission of technological supremacy."

[Expanded Reading]

- [Letters to MSCI and BlackRock on Investments Fueling China's Military](#), The Select Committee on the Chinese Communist Party, August 1, 2023
- [GOP threatens to block Biden from easing China sanctions in exchange for fentanyl cooperation](#), Fox News, August 1, 2023
- [S.2545 - Strengthening American Competitiveness Against Harmful Subsidies Act of 2023](#), Congress.gov
- [Hearing Notice: Commanding Heights: Ensuring U.S. Leadership in the Critical and Emerging Technologies of the 21st Century](#), The Select Committee on the Chinese Communist Party, July 26, 2023
- [Casey, Cornyn Bill to Screen U.S. Investment in China Overwhelmingly Passes Senate](#), Office of U.S. Senator Bob Casey (D-Pennsylvania), July 25, 2023
- [U.S. Weighs Potential Deal With China on Fentanyl](#), *The Wall Street Journal*, July 24, 2023 [Paywall]
- [Chairman Gallagher's Opening Remarks at the hearing "The Biden Administration's PRC Strategy,"](#) The Select Committee on the Chinese Communist Party, July 20, 2023