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TnT ICAS TRADE 'N TECHNOLOGY PROGRAM

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What's Been Happening

1 — Stabler Prospects for U.S.-China Relations Following Yellen's Visit— 1

[In One Sentence]

- U.S. Treasury Secretary Janet Yellen returned from a visit to China after a series of conversations which she described as “direct, substantive and productive.”
- Despite existing efforts to cordon-off certain economic sectors, Yellen says that she and President Biden do not see the U.S.-China relationship “through the frame of great power conflict” and believe in the possibility of “healthy economic competition” that is “mutually beneficial in the long term.”
- Meanwhile, the U.S. pledged alongside its ‘Five Eyes’ partners—Australia, New Zealand, the United Kingdom and Canada—to formally coordinate export control measures through increased information sharing regarding attempts by third parties to skirt the rules.
- The President's Export Council urged the administration to address standards barriers with trading partners and promote acceptance of U.S. standards in key sectors and regarding critical and emerging technologies.
- In response to concerns raised at the World Trade Organization (WTO), China said its new export control measures on key semiconductor inputs accord with international usage, pointing to export control measures by the United States and other WTO members.

[Mark the Essentials]

- Although both the United States and China described Yellen's visit as constructive, neither Yellen nor Beijing suggested any changes to each side's trade, investment and technology policies. During the visit, the Chinese side reiterated concerns over U.S. sanctions and restrictions on China while Yellen conveyed concerns on China's market practices and acknowledged the existence of “significant disagreements” between the U.S. and China in terms of economic policy.
- President Biden's special envoy for climate change John Kerry announced plans to visit China and restart talks on U.S.-China climate cooperation—talks that were suspended after then-Speaker of the House Nancy Pelosi paid a visit to Taiwan in August 2022.
- Deputy National Security Advisor Mike Pyle recently said that the Biden administration does not see trade policy at “the core of international economic policy,” and instead highlighted the importance of using U.S.

domestic investment, in coordination with U.S. allies, to address “emerging set of challenges” such as supply chain resilience, climate and clean technology and the digital economy.

- Meanwhile, during her opening remarks for the meeting of the President’s Export Council, U.S. Secretary of Commerce Gina Raimondo said that it was “a shame” that the Export Council did not convene for seven years “because trade is important and underpins so many jobs in America and America’s place in the world.” Raimondo highlighted the Commerce Department’s new “National Export Strategy,” which establishes “a coordinated, whole-of-government framework” to “better equip American companies and workers to compete in global markets.”
- China recently issued export controls on gallium and germanium products, two important materials for semiconductors used for 5G communications, autonomous vehicles, renewable energy and military systems. Chinese officials said the export control measures are “non-discriminatory” and are “international customary practice,” arguing that EU members have also imposed export control over “relevant products and materials.” China has been critical of export control measures imposed by the U.S. and its allies on advanced semiconductor and manufacturing equipment.

[Keeping an Eye On...]

- By most accounts, Treasury Secretary Janet Yellen’s visit to Beijing was a success. She communicated the principal objectives of the Biden administration’s economic approach to China. First, that the administration would secure the U.S.’ and allies’ national security interests, while not seeking to gain an unfair economic advantage. Second, that a healthy economic relationship was in the interest of both parties and that the United States was not seeking to decouple from China. And third, that both parties must cooperate on the key global challenges of the day; most notably, on tackling developing country debt distress and on climate change. For their part, the Chinese side also found value in airing their grievances directly, with requests that the U.S. remove the illegal Section 301 tariffs, stop containing Chinese companies, ensure fair treatment in bilateral investment, loosen export controls, and lift the bans on Xinjiang-related products. The integrity of Secretary Yellen’s constructive approach on China is beyond reproach. What is not beyond reproach, however, is whether the administration is as united in its view on economic engagement with China as Ms. Yellen says. In late April, U.S. National Security Advisor Jake Sullivan laid out the five pillars of the administration’s “foreign [and economic] policy for the middle class.” Four of the five pillars—modern industrial policy, as embodied by the Inflation Reduction Act and the CHIPS and Science Act; cooperation with ‘like-minded’ partners and allies; moving beyond traditional trade deals to new international economic partnerships, such as IPEF; and ‘small yard, high fence’ technology denial policies—are framed in part or outright opposition to China. Only pillar four—recapitalizing and repurposing multilateral development banks to tackle debt distress and fight climate change—lends itself to bilateral cooperation with China. Given the overarching nature of Mr. Sullivan’s remarks, the disconnect with the policy line communicated by Secretary Yellen cannot simply be swept under the carpet. Ms. Yellen’s ten hours of meeting in Beijing was an important down-payment towards maintaining open lines of communication with China. It should not be confused however as a new beginning in the administration’s economic approach towards China. The more things change, the more they stay the same.

[Expanded Reading]

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- [Five Eyes Partners Agree to Formalize Cooperation on Export Control Enforcement](#), Bureau of Industry and Security, June 28, 2023

2 — Above the Fray: The EU’s Position Between the U.S. and China— 2

[In One Sentence]

- The Council of the European Union—made up of the leaders of all of the EU member states—released a six-paragraph document summarizing its approach to China.
- The European Council acknowledged that it shares with Beijing a desire for a rules-based international order, but that diverging interests in some areas necessitate a “multifaceted policy approach” that recognizes China as “simultaneously a partner, a competitor and a systemic rival.”
- Accordingly, the European Union first encouraged China to “take more ambitious action” on global challenges such as climate change, pandemic preparedness, food security and humanitarian aid and committed to engage with China on these matters.
- In the realm of trade, the Council asserted that it wants to maintain “balanced, reciprocal and mutually beneficial” exchanges with China and will, thus, seek to “reduce critical dependencies and vulnerabilities” without decoupling or turning inwards.
- Closer to home, the Council called on Beijing to “press Russia” to end its aggression in Ukraine as part of its mandate as a United Nations Security Council permanent member.
- Further afield, the Council expressed its concern over increasing brinkmanship in the East and South China Seas (the Taiwan Strait in particular) and affirmed its opposition to unilateral efforts to change the status quo.
- Finally, the Council reiterated its commitment to human rights and called on Beijing to engage in dialogue over its treatment of human rights activists, the “situation” in Tibet and Xinjiang, and the erosion of its commitments in Hong Kong.

[Mark the Essentials]

- On July 5, 2023, the European Union confirmed that China asked to reschedule the High Representative for Foreign Affairs Josep Borrell’s planned visit to Beijing on July 10-11 without providing a specific reason. Separately, on July 3, 2023, China announced plans to impose export restrictions on gallium and germanium, two key semiconductor inputs, which a former top Chinese official said is “just the beginning” of possible countermeasures to Washington’s “high-tech restrictions on China.”

- Amidst continued trade tensions between the United States and China, European businesses expressed concerns that they are “paying for the competition between the United States and China.” Business leaders and officials of EU member states have also expressed frustration over the European Union’s slow response to external policies, such as the United States’ Inflation Reduction Act.
- Following last month’s meeting of the U.S.-EU Trade and Technology Council (TTC), EU officials noted that the Trans-Atlantic Initiative for Sustainable Trade is a “key” and “very important” deliverable of the TTC. According to EU officials, the initiative would increase trade and investment, strengthen trans-Atlantic cooperation, decrease “unwanted dependencies” and promote the green transition.
- Echoing continuing international concerns about the U.S. Inflation Reduction Act’s (IRA) subsidy policies, automakers and U.S. unions are pressing the Treasury Department for clearer guidance on its electric vehicle policies. Some seek clarifications regarding China’s role in U.S. supply chains, while others question whether it is practical and possible for automakers to fully exclude critical minerals sourced from “foreign entities of concern.”

[Keeping an Eye On...]

- On June 30, 2023, in the space of six short paragraphs, the European Council revealed the yawning gap between its economic approach towards China and that of the United States’. Europe’s ‘multifaceted’ March 2019 policy approach where China is simultaneously a partner, competitor, and systemic rival remains unchanged, despite the many negative developments that have occurred in the intervening time (i.e., outbreak of COVID-19; human rights violations in Xinjiang; wolf warrior diplomacy; suspension of the China-EU Comprehensive Agreement on Investment; Russia’s war in Ukraine and China’s lack of condemnation). More importantly, the European Union seeks a “constructive and stable” relationship with Beijing that is anchored in U.N.-centered international law, and not just a rough-and-readily coexistent relationship that is fastened to a one-sided version of improvised international law. Just as importantly, the European Union does not seek to decouple from China or flirt with populism, protectionism, and economic nationalism. Derisking (and diversifying) supply chains is not code word for decoupling; turning inwards is not an option either. Granted, that the EU has been active of late in building out its economic security toolbox with a focus that is primarily China-driven. These include instruments that target trade dumping, foreign subsidization, 5G/6G security, export controls, and inbound and outbound foreign investment screening. But these measures are seen by the EU not as a stepping-stone towards a deeper rupture in ties but as a means to rebalance an incompletely reciprocal relationship at a time of economic security concerns so as to set ties on a pathway that could realize its immense potential. Much credit is due at the Chinese end. It would have been easy to write Brussels off as Washington’s vassal in the latter’s strategic rivalry *vis-à-vis* Beijing. Instead, Beijing elevated the European Union to the role of its top geoeconomic partner as early as Summer 2019 and has patiently stuck to the script, despite the many bouts of turbulence in the time since. Four years on, this perseverance is finally paying off. When Secretary of State Blinken, Commerce Secretary Raimondo and USTR Tai meet their EU counterparts later this fall, they will be left to reflect on how little has been achieved on their vaunted common approach on China within the Trade and Technology Council (TTC) framework. Joint commitments of a binding nature have been few and far between. And this, during the term of a pro-EU, multilateralist-minded U.S. administration. Come election season next year, and should the Republicans capture the White House, China might be the least of the EU’s worries.

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- [Why automakers are fretting over four words in the Inflation Reduction Act](#), *SupplyChainDive*, June 15, 2023

On the Hill

[Legislative Developments]

- A bipartisan pair of lawmakers of the Senate Finance Committee's trade subcommittee introduced a bill that would authorize the President to initiate trade negotiations with "trusted trading partners" to address medical product shortages and thereby increase U.S. supply chain resilience.
- Senator Tom Cotton moved to block the attempt to unanimously pass a bill to approve the recently negotiated U.S.-Taiwan trade agreement in the Senate, arguing that "several of my colleagues and I" needed to study the "complicated" agreement further before deciding their position.
- Eleven Democratic lawmakers from the House Ways and Means Committee introduced a bill that will reauthorize and update three key trade programs: the Generalized System of Preferences, the Trade Adjustment Assistance program, and a Miscellaneous Tariff Bill.

[Hearings and Statements]

- The Office of the U.S. Trade Representative is attempting to send a "really strong message" to Congress in support of the reauthorization of the Generalized System of Preferences, according to Deputy USTR Sarah Bianchi.
- Former Ohio Senator Rob Portman urged Congress to pass a Trade Promotion Authority (TPA) bill that will grant the President limited power to negotiate free trade agreements in accordance with enumerated congressional objectives and interests in trade. TPA is traditionally considered after the administration proposes a need for such a bill, but Portman argued that Congress should "grab the bull by the horns and move forward if the administration refuses to."
- House China Committee Chair Mike Gallagher and Oversight and Accountability Committee Chair James Comer are asking the U.S. Postal Service to provide records of mail and shipments that enter the United States from China. The lawmakers seek to investigate how Chinese e-commerce platforms "take advantage of the de minimis rule" and ship products directly to U.S. consumers "without paying duties and fees or subjecting their products to investigation by authorities."

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- [US trade official supportive of Philippines' GSP renewal](#), *Philstar*, June 27, 2023
- [Senators Carper and Tillis Introduce Bill to Strengthen Medical Supply Chains and Boost U.S. Economic Resilience](#), Office of U.S. Senator Tom Carper (D-Delaware), June 22, 2023
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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]

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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.

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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]

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- [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
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- [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
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- [Field Hearing on Trade in America: Agriculture and Critical Supply Chains – Kimball, Minnesota](#), House Ways and Means Committee, July 10, 2023

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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]

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- [AI companies try to self-regulate](#), Politico, August 2, 2023
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- [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]

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- [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
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- [New Partnership with Panama to Explore Semiconductor Supply-Chain Opportunities](#), U.S. Department of State, July 20, 2023
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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]

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- [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]

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- [U.S. Weighs Potential Deal With China on Fentanyl](#), *The Wall Street Journal*, July 24, 2023 [Paywall]
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What's Been Happening

1 — Assessing Raimondo's Trip to China: Words v. Actions — 1

[In One Sentence]

- U.S. Secretary of Commerce Gina Raimondo visited China from August 27-30 to hold meetings with senior Chinese officials and U.S. business leaders.
- Echoing earlier statements from the Biden administration, Raimondo said that the U.S. does not seek “decoupling” or “hold China’s economy back,” but hopes to maintain a stable economic relationship with China while protecting U.S. national security.
- Raimondo and China’s Minister of Commerce Wang Wentao agreed that the U.S. and China will hold expert discussions to jointly strengthen the protection of trade secrets at administrative licensing proceedings.
- Raimondo also said she had “good discussions” to potentially cooperate with China on “guardrails and safety” concerning artificial intelligence.
- The two sides also agreed to launch an “export control enforcement information exchange” to “reduce misunderstanding of U.S. national security policies,” while Raimondo emphasized that the U.S. will not “compromise” or use the forum to negotiate “concessions” of U.S. export controls policy.

[Mark the Essentials]

- In an interview after her China visit, Raimondo said that the U.S. is in “fierce competition with China at every level,” but underscores the necessity to manage the competition and put concerns and differences “right on the table.” During the meetings in China, Raimondo expressed concerns about U.S. national security, fair and transparent treatment of U.S. companies, the lack of a level playing field for U.S. workers and businesses, as well as the recent discovery that Chinese hackers breached her emails.
- In the midst of Raimondo’s visit to China, long U.S.-sanctioned Chinese telecommunications company Huawei released a new smartphone with an advanced chip designed and manufactured in China, raising concerns about the effectiveness of U.S. export controls in semiconductor and other cutting-edge technologies.
- Having urged Raimondo against establishing new channels of communication with China before her visit, Republican lawmakers and Washington’s China hawks criticized Raimondo’s move to establish “information exchange” and “technical dialogues.” They argued that such moves would only enable China to better

circumvent U.S. policy, provide Beijing with a “propaganda tool,” and compromise U.S. national security and competitiveness.

- Meanwhile, business representatives have applauded the positive signals of Raimondo’s visit to China and marked it as a “first step” in clearing out some market uncertainties and addressing certain trade issues, such as Beijing taking possession of the Boeing 737 Max that it had previously purchased. Other analysts noted, however, that little progress has been made on longstanding and thorny trade issues and on softening general tensions in the bilateral relationship.

[Expanded Reading]

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2 — U.S.-China Trade Tit-for-Tat Accusations and Unveil Measures — 2

[In One Sentence]

- U.S. President Joe Biden signed a new executive order to start creating a regulatory mechanism to restrict U.S. investment in certain dual-use semiconductor, quantum information and artificial intelligence technologies in China.
- China’s Ministry of Commerce said it is assessing the impact of the United States’ new outbound investment restriction mechanism and will “take necessary countermeasures” based on the mechanism’s actual impacts.
- Amidst continuing concerns about China’s domestic economy and business environment, China’s State Council released a new guideline to help ministries and local governments attract more foreign investment.
- Biden signed into law a bill that provides congressional approval for the first trade agreement negotiated under the United States-Taiwan Initiative on 21st-Century Trade.
- China’s Ministry of Commerce released a new report that criticizes U.S. compliance of WTO rules, arguing that the United States is undermining the multilateral trade system with its actions related to national security, agricultural subsidies, unilateral tariffs, export controls, and paralysis of the WTO Appellate Body.
- The U.S. Bureau of Industry and Security (BIS) expanded the export controls of certain nuclear-related dual-use items to China, citing national security and foreign policy concerns.

- The U.S. BIS is seeking public comments on the exclusion process of Section 232 tariffs on steel and aluminum, aiming to streamline and “finalize” relevant rules.
- At a roundtable in Wisconsin featuring U.S. businesses, the bipartisan leaders of the House China Committee argued for further tightening of U.S. trade tools and tariff enforcement to counter China’s “unfair” business practices.

[Mark the Essentials]

- The Office of the U.S Trade Representative has extended some of the tariff exclusions related to the Section 301 tariffs on Chinese goods in order to allow time for “further consideration” of the overall Section 301 tariffs. USTR’s four-year review of the tariffs began last year and was expected to be finished this fall.
- A bipartisan pair of House lawmakers have reintroduced a bill to require congressional review before the President introduces new tariffs and other new actions under Section 232. The issue of trade authority also came into question during the recently passed Taiwan trade bill, where the White House and Congress disagreed whether certain “non-binding” trade agreements require congressional approval.
- A WTO dispute panel ruled that China’s decision to increase tariffs in response to U.S. Section 232 tariffs on steel and aluminum did not constitute “legal retaliation” under WTO rules. China argued that its tariff increase was a “safeguard” measure against U.S. actions and consequent harm to Chinese domestic producers.
- In a recent interview on China’s economy, Peterson Institute for International Economics senior fellow Chad Bown cautioned that a slowdown in the Chinese economy could mean significant pressure on the global trading system if China tries to export its way out of its economic problems. Meanwhile, advising against U.S. actions to deliberately worsen China’s economic problems, analysts at a U.S.-China Economic and Security Review Commission hearing warned that moves to worsen China’s economy or isolate China from the global economy could have serious repercussions and would make it “far more difficult” to align with allies and partners on China.
- As the United States turns to further reduce carbon emission of its transportation sector, U.S. renewable diesel makers are importing an increasing amount of animal and vegetable oil and fats from China to produce low-carbon alternatives to petroleum-based fuels.

[Expanded Reading]

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3 — U.S.-China Competition Goes Global— 3

[In One Sentence]

- At the closing ceremony of the 2023 Brazil-Russia-India-China-South Africa (BRICS) business forum, Beijing cautioned against the attempt of “some countries” to “wantonly contain and suppress emerging market countries and developing countries.”
- Following their trilateral leaders’ summit at Camp David, the United States, Japan and Korea agreed to launch a new supply chain early warning system, strengthen cooperation on “protection measures” and export controls of advanced technologies, and work together to develop standards for emerging technologies.
- U.S. Trade Representative Katherine Tai said that the U.S. and India are moving away from a “traditional, fully comprehensive liberalizing” trade agreement and are working on a “more strategic” “win-win” deal to strengthen security, resilience and growth.
- The G20 trade ministers called for more “constructive” work to advance “necessary” WTO reforms, and, in non-binding annex documents, recognized the need for more cooperation on global value chain resilience and trade digitalization.
- At an event on Germany's China strategy, Germany’s Ambassador to the U.S. Andreas Michaelis said that German businesses are increasingly looking at the U.S. market as China becomes less “promising” due to market shifts, structural challenges and other economic changes.

[Mark the Essentials]

- Prior to the business forum, trade ministers of China, India, Brazil, Russia and South Africa stressed their commitment to strengthen the multilateral trading system and constructively advance WTO reform and “clearly” condemned “some developed countries” for causing the “fragmentation of the global supply chain” by implementing “unilateral and discriminatory measures” such as tax incentives and carbon border adjustment mechanisms.
- In a recent interview, U.S. Trade Representative Katherine Tai reaffirmed that U.S. trade policy is “strongly rooted” in the shift away from tariff liberalization to building “structures and institutions and practices” at home and abroad to “reorient” globalization and strengthen middle classes and workers at home.
- During an earlier meeting with India’s Minister of Commerce and Industry Piyush Goyal, Tai expressed concerns about India’s import licensing requirements for technology goods amidst India’s continuing efforts

to increase domestic manufacturing of computers. The two sides agreed to explore the measure's impact on U.S. exports to India and "find a solution that addresses both countries' concerns."

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- [FACT SHEET: The Trilateral Leaders' Summit at Camp David](#), White House, August 18, 2023
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What's Been Happening

1 — Is Huawei's New Phone Bringing Back Old Competition? — 1**[In One Sentence]**

- The Chinese embassy in the U.S. said that China opposes using “competition” to define the China-U.S. relationship, arguing that “going all-out to ‘compete and win’” is “detrimental on both sides.”
- Members of the U.S. House Select Committee on China have called for a number of measures to further tighten restrictions on U.S. outbound investment in China.
- The U.S. Trade Representative has extended two exclusion processes related to Section 301 tariffs on Chinese goods to allow for “further consideration” on whether to extend the Section 301 tariffs in general.
- Responding to Huawei's release of a new smartphone model, a number of Republican lawmakers have questioned the effectiveness of the Biden administration's technology restrictions and called for tighter implementation of sanctions.

[Mark the Essentials]

- Noting the “transformative impact” of generative artificial intelligence (AI) on “free expression and economic opportunities,” a coalition of global think tanks are calling on “democratic countries” to commit to “free and open” AI and to avoid restrictions on the export of AI models and training data “beyond those necessary for legitimate security concerns.” At the same time, senior U.S. and EU officials have also highlighted the need to address the risks and benefits of AI and to “join forces” with allies and partners to coordinate AI policy through transatlantic partnerships or at the G7.
- In a report released on September 11, the U.S.-based Information Technology and Innovation Foundation (ITIF) argued for an expansion of the Information Technology Agreement (ITA) under the World Trade Organization framework. According to ITIF, if ITA-III further liberalizes global trade in leading and emerging technologies such as 3D printers, industrial robots, commercial-use drones, lithium-ion batteries and solar cells, the change could boost the global economy by \$766 billion and grow U.S. GDP by \$208 billion over the next decade.
- The latest model of Huawei's smartphone, Mate 60 Pro, is believed to contain a chip that supports 5G functions and is manufactured by China's Semiconductor Manufacturing International Corporation (SMIC) under a 7 nanometer process. The breakthrough has sparked calls for even tighter export controls on China so

as to prevent SMIC and Huawei from being able to design, manufacture and utilize advanced chips. Huawei is reportedly planning to launch a 5G version of its mid-ranged model Nova in October or November.

- The Office of the U.S. Trade Representative has also extended the deadline for public comments to help inform the administration's development of an "inclusive" "trade and investment policy" that would "expand the benefits of trade to underserved and marginalized communities in the United States and trading partners that share concerns about rising inequality."

[Keeping an Eye On...]

- On August 17, 2020, the Commerce Department's Bureau of Industry and Security (BIS) kneecapped Huawei—or so it thought—by extending its draconian foreign direct product (FDP) rule to the firm. Any 'essential' U.S. technology embodied in equipment related to any production stage of a Huawei product—even if that equipment was sold to Huawei by a foreign manufacturer—was to be denied to the firm. At that time, Huawei's CFO Wanzhou Meng was also facing U.S. Justice Department-initiated bank fraud charges and detained in Canadian custody. Fast forward three years later and HiSilicon, Huawei's in-house chip design unit, has designed an advanced chip for one of Huawei's topline smartphones that features central processing units and graphics processing units that are indigenously designed or adapted from Arm's chip architecture. Apple, too, had polished its edge by building on Arm's architecture for its iPhone and Macs. China's Semiconductor Manufacturing International Corporation (SMIC), the chip's fabricator and Huawei's compatriot in BIS' Entity List, has meanwhile replicated the chip's miniaturization at the 7-nanometer node, which effectively is also Intel's best process technology in the marketplace today (Intel is due to release a 4nm chip later this year). And as for Wanzhou Meng, her indictment was dismissed with prejudice in December 2022, meaning it cannot be brought again by the Justice Department (she admitted to making false statements only). Clearly, matters have transpired in ways not entirely foreseen, much less desired, by the United States. Washington was forewarned that choking China's access to advanced chip technology would force China to get off the lazy path of purchasing these technologies off-the-top-shelf at a premium and incentivize it to recreate them in-house; even if they were recreated a technological generation or two behind. This is, in fact, what has come to pass. Huawei has essentially leapfrogged the export controls by replicating and replacing in-house or in-country the most vulnerable aspects that were the subject of the controls. And in the process, it has 'designed out' multi-billion dollars' worth of U.S. inputs as well as future license payments. The United States and other select countries continue to remain major players for China's semiconductor ecosystem, be it in terms of key gasses, chemicals, or chip producing tools which are sold as licensed exceptions to Chinese end-users. Going forward, the dilemma for policymakers in the United States and select Western countries is therefore this: do they wish to enable their manufacturers to hold on to the handsome profits that they earn in the Chinese market for a few more years before their Chinese counterparts reinvent these inputs and tools in-country (which they will over time, except at the leading edge of chipmaking technology, with unremitting government backing)? Or do they wish to kiss goodbye to the fat bottom lines enjoyed by these manufacturers tomorrow by denying their license applications to sell into the Chinese market—in a bid to temporarily steepen the learning curve for the Chinese. In retrospect, keeping China's technology incubation ecosystem lazy by providing top-shelf technologies at a premium (except those clearly intended for military end uses), might have been the smarter way forward. When Huawei builds the computing backbone for China's AI companies during this "decisive decade," as described by National Security Advisor Jake Sullivan, ahead, future administrations will come to rue the Trump and Biden administrations' punitive technology denial actions against the company and the incarceration of its top executive under flimsy pretexts.

[Expanded Reading]

- [China's Huawei set to re-enter mid-range 5G phone market -report](#), Reuters, September 19, 2023
- [Huawei's chip breakthrough poses new threat to Apple in China — and questions for Washington](#), CNBC, September 19, 2023
- [Rubio Calls for Tougher Sanctions on Huawei](#), Office of U.S. Senator for Florida Marco Rubio, September 14, 2023
- [A Global Declaration on Free and Open AI](#), Information Technology & Innovation Foundation, September 13, 2023
- [NYC FIELD HEARING: Systemic Risk: The Chinese Communist Party's Threat to U.S. Financial Stability](#), The Select Committee on the CCP, September 12, 2023 [Video]
- [How Expanding the Information Technology Agreement to an “ITA-3” Would Bolster Nations’ Economic Growth](#), Information Technology & Innovation Foundation, September 11, 2023
- [China: Competition should not define relationship with the U.S.](#), *Inside U.S. Trade*, September 6, 2023 [Paywall]

2 — Balancing Security with Openness— 2

[In One Sentence]

- The European Union launched an anti-subsidy investigation into electric vehicle imports from China as a prelude to deciding whether punitive tariffs should be imposed.
- U.S. House Foreign Affairs Committee ranking member Gregory Meeks introduced a bill to upgrade the Quadrilateral Dialogue with a Quad Inter-parliamentary Working Group with Japan, Australia, and India.
- During a visit to Indonesia, U.S. Vice President Kamala Harris said that the U.S. looks forward to working with Indonesia to increase trade and build resilient supply chains, including for critical minerals.
- Noting issues such as climate change, pandemics, global tech race, supply chain resilience and Ukraine, European Internal Market Commissioner Thierry Breton said that Europe needs a “more sophisticated answer” than simply opposing “so-called protectionist” industrial policy and trade.

[Mark the Essentials]

- European Commission Executive Vice-President Maroš Šefčovič noted, however, that the European Union is “very far from imposing duties for Chinese vehicles,” adding that “fair” investigations “must be conducted properly,” but said that the European Union is committed to support its car industry including by working with the battery sector alongside car manufacturers.
- After the European Commission designated Alphabet, Amazon, Apple, ByteDance, Meta, Microsoft as digital platform “gatekeepers” under the Digital Markets Act to face specific obligations and requirements, U.S. Chamber of Commerce Vice President of International Digital Economy Policy Jordan Heiber argued that the decision to include five American companies “shows the intent behind the bill” as “targeting” U.S. businesses to benefit “their European competitors.” Heiber added that the designation should be “a wakeup call for the U.S. government about Europe's broader digital sovereignty agenda and the need for the U.S. government to push back.”
- In a letter to President Biden, activists argued that source code rules currently negotiated under the Indo-Pacific Economic Framework could grant tech corporations “broad new secrecy rights” to prohibit consumers, farmers and small businesses from accessing necessary tools and information to repair their electronics-based equipment.

- Ex-USTR senior trade negotiator Wendy Cutler and Akin Gump partner Clete Willems argued in a recent report that the United States must “intensify its economic and trade engagement” in the Indo-Pacific region “well beyond” the current IPEF negotiations to avoid “becoming spectators” as “partners work among themselves and with China to strengthen supply chain connectivity and regional economic integration.”
- Accepting both the “urgency” to use industrial policies to address “global challenges” and concerns related to the breaking of WTO rules and fostering unfair competition, two researchers at the Council on Foreign Relations argued that the United States should push for a “paradigm shift” towards more transparency, accountability and “guardrails” in industrial subsidies.

[Keeping an Eye On...]

- On September 13, on the back of a surge of Chinese electric vehicle (EV) imports into the bloc, European Commission President Ursula von der Leyen launched an anti-subsidy investigation into China’s electric vehicle sector. The probe is reminiscent of the surge in Chinese solar panel imports in the early-2010s that touched off a Commission probe in September 2012 and led to the imposition of definitive anti-dumping duties of 47% in December 2013. The measure expired in September 2018. President von der Layen’s investigation into China’s EV imports is to be welcomed. An anti-subsidy investigation is a rules-bound means to protect domestic producers from material injury arising from a surge in imports. Should China wish to challenge the EU’s (likely) countervailing duty measure, it could haul the latter to the Multi-Party Interim Appeal (MPIA) arbitration arrangement that a subset of WTO members, including the EU and China, have signed on to as a workaround to supersede the stalled WTO Appellate Body process. The act of investigating China’s alleged EV subsidies is not the important part. It is the rules-bound means being triggered by the EU that is far more important. So long as both the EU and China manage their dispute within the four corners of international trade law—in this case, countervailing duty law, the EV industries in both countries will both be better off. The pace of Chinese EV imports into the bloc will slow but overall sales will gradually increase as Chinese EV manufacturers relocate production to the EU, much like Japanese manufacturers had done forty years ago (the EU’s fundamental malaise is not Chinese EV imports; it is the foot-dragging by trade unions in key bloc countries with regard to the shift away from more labor-intensive internal combustion engine cars, as Detroit too is discovering). And European (German) EV producers will reciprocally be integrated into Chinese-led battery supply chains insofar as catering to final demand in these two large global markets: the EU market and the Chinese market. This is a far cry from the United States’ approach, which has been to write a WTO non-compliant law (the Inflation Reduction Act’s EV provisions) and thereafter compound this unlawfulness by blocking Chinese cars and content as being products of a “foreign entity of concern” under the guise of supply chain resilience. Even licensing Chinese EV-linked IP is sought to be barred. President von der Layen’s probe is to be welcomed, not feared. The road to ‘win-win’ on reciprocal China-EU electric vehicle production and trade exchanges runs through the commission’s anti-subsidy probe.

[Expanded Reading]

- [Europe is ‘very far’ from imposing new duties on Chinese EVs despite ongoing probe, top official says](#), CNBC, September 20, 2023
- [EU to investigate ‘flood’ of Chinese electric cars, weigh tariffs](#), Reuters, September 13, 2023
- [EU announces an investigation into Chinese subsidies for electric vehicles](#), Associated Press, September 13, 2023

- [Groups Leading “Right to Repair” Movement Urge Biden Administration to Reject Any Attempts to Derail their Gains Via “Trade” Agreement as Latest Round of Indo-Pacific Trade Negotiations Start](#), repair.org, September 12, 2023
- [Meeks Introduces Strengthening the Quad Act to Boost Indo-Pacific Cooperation](#), House Foreign Affairs Committee, September 11, 2023
- [Jump-starting U.S. Trade and Economic Engagement in the Indo-Pacific](#), Asia Society, September 11, 2023
- [Rethinking International Rules on Subsidies](#), Council on Foreign Relations, September, 2023
- [Digital Markets Act: Commission designates six gatekeepers](#), European Commission, September 6, 2023

On the Hill

[Legislative Development]

- U.S. Senator James Lankford introduced a bill to suspend permanent normal trade relations with China “if Beijing invades Taiwan.”
- To foster closer cooperation and dialogue with Japan, Australia, and India, House Foreign Affairs Committee ranking member Gregory Meeks has proposed a bill to upgrade the Quadrilateral Dialogue and establish a Quad Inter Parliamentary Working Group.

[Hearings and Statements]

- In a field committee hearing in New York, members of the House China Committee called for congressional efforts to “ensure American money isn’t financing the CCP’s top tech ambitions” including AI, quantum computing, semiconductors, biotechnology, directed energy and advanced manufacturing.
- House Ways & Means Committee Chair Jason Smith led a delegation of Republican lawmakers to Europe to denounce the global tax agreement that the Biden administration negotiated under the auspices of the Organization for Economic Co-operation and Development (OECD).
- The United Steelworkers is urging lawmakers to improve the Generalized System of Preferences program to better defend the interests of American workers and reduce international labor and environmental abuses before renewing the program.
- Several Democratic lawmakers, including House Democratic Leader Hakeem Jefferies and Senator John Fetterman (D-PA) traveled to Michigan to join UAW auto workers at the picket lines in support of their strike action against Detroit’s Big Three automakers.

[Expanded Reading]

- [Lankford Looks to Deter Communist China Aggression Against Taiwan](#), Office of U.S. Senator James Lankford, September 13, 2023
- [House committee targets crackdown on U.S. investment in Chinese tech, military development](#), CNBC, September 12, 2023
- [Strategic Importance of Digital Economic Engagement in the Indo-Pacific](#), Hearing in the House Foreign Affairs Committee, January 19, 2022

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