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What's Been Happening

**1 — Schumer Highlights Trade and Economic Issues During China Trip;
Commerce Department Expands Anti-China Chip Rules — 1****[In One Sentence]**

- A bipartisan delegation of U.S. Senators, led by Majority Leader Chuck Schumer, visited China and met with Chinese President Xi Jinping and other top officials.
- According to Sen. Schumer, the delegation “made clear to” President Xi that the United States sought “a leveling playing field” and “responsible competition,” and that neither is present given “huge structural inequalities and serious imbalances” in U.S. economic and trade relationship with China.
- The delegation specifically “raised the need to remove restrictions and open up Chinese markets to U.S. companies, including from the semiconductor, financial services, and aerospace industries.”
- The Biden administration released an updated set of export control rules to restrict China’s access to a broad swathe of advanced chips, including AI chips, as well as chip making tools.
- The new rules come almost exactly one year after the Commerce Department had introduced its *Advanced Computing and Semiconductor Manufacturing Items Rule* to restrict the flow of advanced chips and chip making tools to China.
- U.S. Trade Representative Katherine Tai was appointed as a member to the White House Competition Council, a group created in July 2021 to “identify ways to promote competition in all aspects of the U.S. economy.”

[Mark the Essentials]

- Before and during the China visit, Senator Schumer noted that the United States wanted “reciprocity” in U.S.-China economic competition—namely, that American companies should be “allowed” to “compete as freely in China as Chinese companies are able to compete [in the United States.]”
- Schumer also noted that the United States does not seek a “confrontation” with China but will “prioritize economic and national security, including protecting advanced technologies.”
- The Senate delegation visit occurred months after Senate Majority Leader Chuck Schumer led Senate Committee chairs to launch the “China Competition Bill 2.0” initiative in May. The initiative proposes to “limit the flow of advanced technology,” “curtail the flow of investment to the Chinese government” and

- “secure domestic economic investment,” among others.
- The updated chip and advanced computing rules, which come into effect in 30 days, are a reflection of the U.S.’ struggle to slow the flow of chips and chip making tools into China, despite the wide-ranging and heavy-handed controls imposed in October 2022. Although advertised as intended to deny China access to cutting-edge chips that could strengthen its military, the rules are in fact intended to choke the very existence of an indigenous Chinese capability to design and produce advanced chips at home—be it for military or civilian purposes.
- To this end, two high profile Chinese GPU (graphic processing unit) design firms for AI applications were added to the Commerce Department’s Entity List.

[Keeping an Eye On...]

- What’s good for the ‘goose’ is evidently not good for the ‘gander.’ At his press conference on October 11 at the U.S. Embassy in Beijing, Senate Majority Leader Chuck Schumer demanded that China open up its market to U.S. companies, particularly from the semiconductor, financial services and aerospace industries. He complained furthermore that U.S. companies need to be able to compete as freely in the China market as Chinese companies do in the U.S. market. This, from the same Chuck Schumer who shepherded the CHIPS and Science Act and the Inflation Reduction Act through the Senate to ensure that Chinese semiconductor and battery electric vehicle companies, deemed to be “foreign entities of concern”, would not be allowed to even compete—let alone compete on a level playing field—in the U.S. market. With a trace of amnesia, Schumer even enjoined his Chinese counterparts to address their forced technology transfer policies that coerce American businesses to surrender their IP within the framework of mandatory joint ventures. Well, the forced technology transfer issue was sorted out a number of years ago during the Trump administration in the context of China’s new foreign investment law and the U.S.-China Phase I agreement, which contains a full chapter on technology transfer disciplines. At minimum, it is no longer a pressing issue for U.S. businesses. That said, there is much to commend in the visit by Schumer and his bipartisan Senate colleagues. Congress has been the harshest branch of government insofar as China is concerned, with Schumer having initially led the way as early as the mid-2000’s with a demand for 27.5 per cent tariffs on all imports from China (coincidentally equal to the level of tariffs imposed by the Trump administration). The Congressional Republicans, moreover, are far more anti-China today than at any time since the McCarthy ‘Who Lost China’ witch hunts of the early-1950s (yeah, this would not be a good time to ‘lose’ Taiwan). That the majority leader was nevertheless willing to travel to China and able thereafter to corral three Republicans colleagues to join him, and thereby soften the political ground for President Biden’s forthcoming meeting with President Xi in California, must not be overlooked. If China and the United States are able to further stabilize their relationship in the weeks and months ahead, a fair share of the credit should deservedly reside with the Senate majority leader.
- Much like the genie of protectionism is hard to force back once released, the U.S. political establishment is discovering that draconian export controls, once brandished against a determined adversary, only beget more and even more export controls to achieve the said objective. On October 17, one year after the Biden administration issued its unsparing China-focused export controls on advanced computing and semiconductors (and ran many a victory lap thereafter), the administration found itself in the uncomfortable position of having to issue yet more export control rules—this time, even more expansively written—to achieve the same objective. The *2023 Semiconductor Manufacturing Items Rule* and the *2023 Advanced Computing Rule*, 436 pages in total, cover an immense range of activities and measures, including revisions to the commerce control list with regard to semiconductor manufacturing items and advanced chips, expansion

of the advanced computing foreign direct product rule to a host of Middle Eastern and other countries, and adjustments within the export administration regulations' (EAR) destination as well as end-use controls, among others. The rules are intended to achieve the same objective listed in the October 2022 order; in other words, to restrict China's access to advanced computing chips as well as its capability to develop and maintain supercomputers, and manufacture advanced semiconductors. Huawei's 5G Mate 60 Pro phone, released during Secretary Raimondo's visit in late-August, had blown a hole—albeit a small one, through the October 2022 order. The question that will dog the expanded October 2023 order is this: how soon and how large will the hole be when this new order too is breached? For breached it will be, via a combination of circumvention, innovation and workarounds at China's end.

[Expanded Reading]

- [Commerce strengthens restrictions on Advanced Computing Semiconductors, Semiconductor Manufacturing Equipment, and Supercomputing Items to Countries of Concern](#), Bureau of Industry and Security, U.S. Commerce Department, October 17, 2023
- [Tech war: US sanctions on Biren and Moore Threads strike strong blow to China's GPU champions](#), *South China Morning Post*, October 18, 2023
- [Biden cuts China off from more Nvidia chips, expands curbs to other countries](#), *Reuters*, October 17, 2023
- [Senate Majority Leader Senator Chuck Schumer at a Press Availability](#), U.S. Embassy & Consulates in China, October 11, 2023
- [Majority Leader Schumer Statement Following Meeting With Chinese President Xi Jinping](#), Senate Democrats, October 10, 2023
- [Visiting China, Schumer urges fair treatment of US firms](#), *Reuters*, October 7, 2023
- [Ambassador Katherine Tai to Join White House Competition Council](#), Office of the United States Trade Representative, September 29, 2023

2 — Like-minded Cooperation Advances Despite Festering Difficulties — 2

[In One Sentence]

- U.S. and EU negotiators failed to hammer out deals related to long standing trade and investment irritants at their US-EU Summit, the first such summit meeting in over two years.
- The summit agenda was overshadowed by discussions related to the war between Israel and Hamas, with the situation in Ukraine also dominating the discussions.
- The World Trade Organization (WTO) Chief Economist noted a “recent decline” in U.S. trading with Asian countries and a “recent rise” in trading with “like-minded” partners as the WTO lowered its estimate of 2023 trade growth from the previous 1.7% to 0.8%.
- U.S. Trade Representative Katherine Tai said that members of the Indo-Pacific Economic Framework (IPEF) will “announce some concrete and tangible outcomes” in November when ministers meet on the sidelines of the Asia-Pacific Economic Cooperation (APEC).
- Several business groups urged the Biden administration to ensure multilateral coordination with Europe, Japan and other countries before limiting outbound investment to China.

[Mark the Essentials]

- While useful progress was made by U.S. and EU negotiators on their bilateral trade and investment disputes, fundamental matters of principle still continue to divide the two sides on issues related to critical minerals, energy subsidies and the steel and aluminum market.

- As IPEF negotiators work to finalize the trade “announcements” in November, insiders reportedly claim that the announcement will not include significant progress on digital trade and that deep divisions remain, both, among the parties and within the U.S. side.
- After a ministerial meeting of the Minerals Security Partnership, members of the partnership—including the United States, Australia, Canada, Finland, France, Germany, India, Italy, Japan, the Republic of Korea, Norway, Sweden, the United Kingdom, and the European Union—announced that they would accelerate the development of 17 projects on critical minerals mining, processing and recycling.
- In a panel discussion on U.S. trade negotiations and partnerships, representatives from Hewlett Packard and Samsung lauded the IPEF supply chain agreement as a good first step to set up a “government-to-government model,” but called for more clarification and development to allow for industry buy-in and participation.

[Keeping an Eye On...]

- The United States-European Union Summit of October 20 had been billed as a major meeting of the transatlantic powers—the first such summit meeting since June 2021 and probably the last U.S.-EU summit during this administration’s time in office. Much was riding on its successful outcome, particularly in the area of trade and investment. In the end, the summit turned out to be something of a damp squib, with the two sides releasing an anodyne statement before retiring for the weekend. The U.S.-EU summit of October 20 was also something of a reprieve, given that developments in the Middle East drew attention away from the lack of concrete deliverables on the trade and economics front. Despite having pledged in June 2021 to ensure the long-term viability of their steel and aluminum industries, no agreement on a new sustainable steel and aluminum arrangement was forthcoming despite a self-imposed soft deadline by the two sides. The U.S. would prefer to impose frameworks addressing overcapacity and emissions intensity that either do not hew to international trade law or provide the U.S. an exemption from international trade law-consistent measures. The EU, unsurprisingly, was resistant to going down either path. Unlike that less-than-stalwart law-abiding power, India, with whom the U.S. recently signed an agreement that *de facto* maintains the WTO-illegal Section 232 tariffs, the EU was neither willing to swallow such an arrangement nor provide a blanket exemption to U.S. exporters from its carbon border adjustment mechanism. Of lesser note, the U.S. and EU also failed to finalize a critical minerals agreement that would re-level the playing field that had been tilted by the Inflation Reduction Act’s (IRA) subsidies and would have provided European companies the opportunity to participate within supply chains for the production of EV batteries. Again, it was the issue of multilateral rules and mechanisms that kept the two apart. The U.S. insisted on a “rapid inspection system” (of mines and processing facilities) of its own creation to monitor labor and environmental standards; the EU insisted that any such inspection system must respect global rules and mechanisms, as developed by the International Labor Organization. Both matters—arrangements on sustainable steel and aluminum; a critical minerals agreement—have now been pushed out to the next Trade and Technology Council (TTC) meeting this December. And as for updating the WTO rulebook with more effective disciplines on industrial subsidies—probably the most important agenda item flagged in the June 2021 joint statement, that item seems to have dropped off the discussion table entirely. A bilateral agenda which started with grand statements and towering ambition following the disruptive Trump administration years appears to be limping to the finish line...and not for the first time in U.S.-EU trade and investment relations.

[Expanded Reading]

- [U.S.-EU Summit Joint Statement](#), The White House, October 20, 2023
- [EU, US to keep talking about tariffs as war in Israel and Ukraine overshadow talks](#), Reuters, October 20, 2023
- [US-EU summit yields call for balanced approach to China, urging 'constructive and stable relations'](#), *South China Morning Post*, October 20, 2023
- [U.S. and Europe Clash Over Trump-Era Tariffs](#), *The Wall Street Journal*, October 14, 2023 [Paywall]
- [Tai downplays chances for October steel deal with EU](#), *Politico Pro*, October 10, 2023 [Paywall]
- [Joint Statement on the Minerals Security Partnership Announce Support for Mining, Processing, and Recycling Projects](#), U.S. Department of State, October 10, 2023
- [WTO lowers 2023 trade growth forecast amid global manufacturing slowdown](#), World Trade Organization, October 5, 2023
- [Global Trade Outlook and Statistics](#), World Trade Organization, updated October 2023
- [U.S. Chamber of Commerce submission on "Provisions Pertaining to U.S. Investments in Certain National Security Technologies and Products in Countries of Concern."](#) Regulations.gov, September 28, 2023

On the Hill

[Legislative Development]

- Senator Bill Cassidy called for legislation to impose a “foreign pollution fee” on imports from China that are produced with higher greenhouse gas emissions to counter manufacturing offshoring.
- Senator Todd Young said that the Level the Playing Field 2.0 Act—a bill that aims to reform U.S. trade laws to counter China’s “unfair practices”—could proceed as part of a larger China competition bill package.
- A bill was introduced in both chambers to create a task force within the Office of the U.S. Trade Representative to focus on trade enforcement in the agriculture sector.

[Hearings and Statements]

- In a letter to Under Secretary of Commerce for Oceans and Atmosphere, Richard Spinrad, a bipartisan group of 14 lawmakers called for “urgent” and “immediate action” to “combat” illegal, unreported and unregulated fishing “by the PRC.”
- In a letter to U.S. President Joe Biden, a bipartisan group of eight Senators “requested” immediate meetings and “urgent solutions” to protect U.S. textile and apparel manufacturing “after decades of victimization by Chinese economic and trade predation.”
- In a comment to the Department of Treasury, House Financial Services Committee Chair Patrick McHenry argued that Treasury officials coordinating the Committee on Foreign Investment in the U.S. (CFIUS) are legally “prohibited” from engaging in the Biden administration’s upcoming outbound investment controls regime, and that the Treasury’s Office of Foreign Assets Control (OFAC) should be the authorized administering body.

[Expanded Reading]

- [Gallagher, Bipartisan Lawmakers Urge NOAA to Crackdown on Illegal Chinese Fishing](#), The Select Committee on the CCP, October 11, 2023
- [A Tariff for the Climate](#), *Foreign Affairs* (by Sen. Bill Cassidy), October 5, 2023 [Paywall]
- [Tillis, Brown Call on President Biden to Protect Textile and Apparel Industry from China’s Illegal Practices](#), Office of Sen. Thom Tillis, September 29, 2023

- [Rep. Crawford and Higgins Introduce the Prioritizing Offensive Agriculture Disputes and Enforcement Act](#), Office of Rep. Rick Crawford, September 29, 2023
- [Letter commenting on 88 FR 54961; RIN 1505-AC82: "Provisions Pertaining to U.S. Investments in Certain National Security Technologies and Products in Countries of Concern"](#), Regulations.gov, September 28, 2023
- [Cassidy, Colleagues Introduce Bills to Protect Louisiana Agriculture Against Dumping from China, India](#), Office of Sen. Bill Cassidy, September 28, 2023
- [H.R.5790 - Prioritizing Offensive Agricultural Disputes and Enforcement Act](#), Congress.gov