



# ICAS TRADE N TECHNOLOGY PROGRAM

# DISPATCH

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# TnT ICAS TRADE 'N TECHNOLOGY PROGRAM

The Institute for China-America Studies Trade 'n Technology (TnT) Program chronicles and analyzes the evolving dynamics of U.S.-China trade and technology affairs as they occur.

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## What's Been Happening

## 1 — Tale of Two Antagonists: Outlook for U.S.-China Trade &amp; Tech in 2023 — 1

**[In One Sentence]**

- China has announced plans to challenge the Biden administration's export control measures on semiconductors at the World Trade Organization (WTO), which the U.S. will likely defend via the GATT Article XXI national security exception.
- China has won two recent cases against the U.S. over the national security exception defense, including on the Section 232 tariffs on steel and aluminum and the 2020 prohibition of the "Made in Hong Kong" labelings.
- Tensions between the U.S. and China have increased at the WTO as the two exchanged heated arguments over China's "dumping and subsidization" and the U.S.' trade restrictions that are "destroying" the multilateral trading system.
- The U.S. Trade Representative (USTR) has decided to extend for another nine months 352 product exclusions related to its Section 301 tariffs on China.
- Taiwan has requested to join China's challenge of the U.S.' export controls on semiconductor at the WTO.

**[Mark the Essentials]**

- Calling for the administration to establish regular, evidence-based and quantitative analysis on U.S.-China trade, retiring Senator Rob Portman argued that the U.S. should rely on "data rather than emotion" to "work strategically towards decreasing or increasing trade integration with China."
- Meanwhile, former U.S. Trade Representative Robert Lighthizer is advocating for an "explicit policy of strategic decoupling" which includes tariffs on all imports from China, the further tightening of export controls, and significant limitation of investment flows between U.S. and China.
- The U.S. and Taiwan conducted the second negotiating round of their 21st-Century Trade Initiative from January 14-17, aiming to deepen the economic and trade relationship and advance mutual trade priorities but will not include market-access provisions.
- Noting that China has a "very dire" economic outlook in the near term, think tank analysts and business consultants are saying that China will be in need of more foreign investment and will have lesser leverage to retaliate against U.S. economic and technology restrictions.
- Emphasizing China's "increasing use of economic coercion" in the recently passed National Defense Authorization Act for 2023, Congress has demanded the administration to establish a task force to oversee and implement an integrated strategy in response to these "coercive economic practices."

- Head of the Commerce Department's Bureau of Industry and Security Alan Estevez has asked for more funding and new technology tools so that the agency can have sufficient "manpower and automated capability" to address the "massively increased" demands for export control administration and enforcement.

### [Keeping an Eye On...]

- China (and Hong Kong) enjoyed a good run at the expense of the United States in the WTO's dispute settlement system in December 2022. From the moment that the ink had dried on the filings in their steel and aluminum dispute case and origin marking requirement case, respectively, it was clear as daylight that the constituted panels would strike down the United States' GATT article XXI (national) security exception-based defense. In the space of two weeks in December, the WTO panels did exactly that. In the steel dispute case, the panel ruled that the United States' security exception-based defense of its Section 232 tariffs was indefensible and inconsistent with its GATT obligations. Excess capacity in the steel industry might be a "matter of international attention" but was hardly tantamount to being "an emergency in international relations." Ducking under the WTO's Article XXI security exception was not an acceptable use of the provision. Similarly, in the origin marking requirement dispute case, by compelling Hong Kong exporters to incorrectly label their exports as a product of China, the USTR had conferred a competitive disadvantage on these exporters. Since the U.S. continues to carry on trade with the customs territory of Hong Kong more-or-less just as before—with the exception of the origin marking requirement and some export controls—it was hardly the case that U.S.-Hong Kong international economic relations were at or near a point of breakdown. Washington's justification for an exception based on national security considerations was far-fetched. For those inclined to believe that Beijing will also win its most recent challenge against the Biden administration's export control measures on semiconductors and advanced computing (the U.S. has once again mounted its defense utilizing the Article XXI security exception), they should not count their chickens before they hatch. The regulations are doubtlessly intended to roll back and degrade China's existing civilian semiconductor and computing capabilities, and commercial applications thereof. But the regulations have been artfully written by the Commerce Department to construe that American sales of advanced node semiconductors, semiconductor tools, and advanced computing equipment to China essentially amounts to support for the latter's weapons development program. This includes the development of weapons of mass destruction. Given the inclination of WTO panels to substantially—although not completely—side with the self-judging nature of the Article XXI security exception, it is likely that the panel (which has not yet been constituted) will find the export control measures to be one that could reasonably be "consider[ed] necessary for the protection of the [U.S.]' essential security interests" particularly those "related to fissionable material or the materials from which they are derived." China may not be lucky a third time around at the WTO.

### [Expanded Reading]

- [US pressures Asian allies to join crusade against Chinese chipmakers](#), *The Register*, January 9, 2023
- [As G7 Head, Japan Wants Member Countries to Team Up Against China's 'Economic Coercion'](#), *Time*, January 6, 2023 [Paywall]
- [Taiwan Wants to Join WTO Talks on China's Protest Against US Chip Sanctions](#), *Bloomberg*, January 5, 2023 [Paywall]
- [The World Trade Organization's gift to Joe Biden](#), *The Hill*, December 23, 2022
- [US trade chief says new tools needed to counter China's '20-year distortions' affecting global economy](#), *South China Morning Post*, December 20, 2022 [Paywall]
- [The U.S. Needs to Change the Way It Does Business With China](#), *The New York Times*, December 18, 2022 [Paywall]

- [US adds 36 Chinese companies to trade blacklist](#), *Financial Times*, December 15, 2022 [Paywall]
- [The Right Time For Chip Export Controls](#), *Lawfare*, December 13, 2022 [Paywall]

## 2 — Tale of Three Kingdoms: Outlook for U.S.-EU-China Trade & Tech in 2023— 2

### [In One Sentence]

- At the third ministerial meeting of the U.S.-EU Trade and Technology Council (TTC), the two sides agreed to enhance cooperation on regulating emerging technologies, strengthening semiconductor supply chains, and promoting digital connectivity in third countries.
- A senior U.S. State Department official said that he is feeling increasingly “bullish on the prospects of the TTC,” highlighting TTC’s working group on export controls.
- Beijing has blocked the EU’s initial round of requests for the WTO to review China’s punitive trade restriction on Lithuania following the establishment of a “Taiwanese Representative Office in Lithuania.”
- Despite some positive comments following the TTC’s third meeting, the U.S. and EU are yet to reach an agreement over EU concerns regarding the Inflation Reduction Act (IRA) and electric vehicle (EV) tax credits.

### [Mark the Essentials]

- The U.S. Treasury Department published a “white paper” to slightly expand the scope of companies that could qualify for the IRA’s EV tax credits and other benefits, drawing criticism from some U.S. lawmakers. Meanwhile, the EU Commission “welcomed” the announcement but said more work and time needs to be taken to “address these issues satisfactorily.”
- According to a senior National Security Council official, the transatlantic collaboration on quantum information technology—which was expanded at TTC—will cover coordination on export controls and accordingly set an example for further cooperation on emerging technologies.
- The U.S. and EU have planned a stakeholder meeting on January 31, 2023 to discuss TTC work on topics such as standardization of emerging technologies, climate and green trade, supply chain resilience, and the promotion of EU and U.S. tech leadership.
- U.S. Senators Bob Menendez and Bill Cassidy jointly re-introduced a bill that would require a 60-day warning period before the administration imposes certain retaliatory tariffs on EU imports that are “in transit,” citing pleas and concerns of U.S. companies and small importers.

### [Keeping an Eye On...]

- The discriminatory and WTO-inconsistent local content requirements attached to the renewable energy subsidies in the U.S.’ Inflation Reduction Act (IRA) continue to bedevil US-EU trade and investment ties. On December 29, 2022, the U.S. Treasury Department released its Anticipated Direction of Forthcoming Proposed Guidance with regard to the IRA’s electric vehicle (EV) rules. The white paper foreshadows a modest compromise being teed up by the Biden administration to placate the EU’s grievances. The department plans to “broadly interpret” the term “free trade agreement” in the IRA language on battery and critical minerals-related sourcing requirements to putatively “cover any newly negotiated [arrangements with the EU] during the pendency of the rulemaking process.” Earlier, the Treasury Department had flagged that commercial electric vehicles assembled in Europe would be eligible for the IRA’s US\$7,500 consumer tax credit so long as the EV’s are acquired for use of lease by the customer and were not for resale. The two concessions, while not insignificant, do not amount to a fundamental reframing of the controversial aspects

of the EV tax credits' sourcing rules. As noted in the prior issue of the TnT Dispatch, the U.S. is not about to exchange a mammoth trade deficit with the EU, Japan and South Korea in internal combustion engine-powered automotive vehicles for an emerging series of deficits in electric-powered vehicles. And President Biden understands that his failure to sway the votes of non-college educated males—and particularly those with a persuasion for unionization—in the swing states of Michigan, Pennsylvania and Wisconsin could well doom his 2024 election chances *a la* Hillary Clinton-style. The EV subsidies in the IRA have less to do with revitalizing manufacturing in the 'Rust Belt' and more to do with manufacturing employment in these critical swing states, regardless of the consequences for the long-term competitiveness of the industry. EU, Japanese and South Korean lobbies against the local content requirements in the United States' Inflation Reduction Act (IRA) will soon run up against their limits.

### [Expanded Reading]

- [Treasury delays new restrictions for electric vehicle tax credits, drawing Manchin's ire](#), *The Hill*, December 29, 2022
- [Biden admin bows slightly to European pressure in trade clash](#), *Politico*, December 29, 2022
- [China blocks EU's efforts to form WTO panels on Lithuania export freeze and hi-tech patents](#), *South China Morning Post*, December 20, 2022 [Paywall]
- [Bringing economics back into EU and U.S. chips policy](#), Brookings, December 20, 2022
- [The Real Reasons Why Europe Is Concerned by the US Inflation Reduction Act](#), Institut Montaigne, December 15, 2022
- [Macron wants European response to U.S. IRA to amount to 2% of GDP](#), *Reuters*, December 15, 2022 [Paywall]
- [Next steps for the TTC: A conversation with Under Secretary of State Jose W. Fernandez](#), Atlantic Council, December 13, 2022
- [U.S.-EU Joint Statement of the Trade and Technology Council](#), The White House, December 5, 2022
- [Menendez, Cassidy Introduce Bipartisan Fair Tariff Act](#), Office of Senator Menendez, December 1, 2022

## On the Hill



### [House Speaker McCarthy on China]

- Kevin McCarthy was elected the Speaker of the U.S. House of Representatives in the early morning of January 7, 2023, after House lawmakers failed to reach an agreement in 14 prior rounds of voting. Since 1925, the Speaker of the House has traditionally been elected with a single round of voting.
- McCarthy reportedly promised a number of concessions to secure enough votes from holdout Republican lawmakers. These concessions include: the ability for one lawmaker to trigger a vote to decide whether the current Speaker should be removed from office; less closed-door discussion and negotiations that supposedly accelerate the lawmaking process but decrease legislative transparency for members not holding congressional leadership positions; and seats and chairing positions on key committees for members of the conservative Freedom Caucus.
- McCarthy has worked on establishing a Select Committee on China over the past few months. According to him, the Committee will be a bipartisan task force which focuses on plans and actions in response to “challenges” from China such as “bringing supply chains back to America,” “securing intellectual property,” “ending dependency on China” and “protecting national security.”

- In an op-ed published in early December 2022, co-authors Kevin McCarthy and now-China Committee Chair Mike Gallagher describe the U.S.-China relationship as a “new Cold War” and proposed “tough policies” to restore supply chains and end critical economic dependencies on China, “detering aggression...both military and economic” and defending domestic institutions.
- Prior to the midterm election, McCarthy was also outspoken on curbing TikTok’s access to U.S. user data and other “dangerous data practices” of the social media platform which is owned by Chinese company ByteDance. McCarthy alluded back to the point in December when he said that he would “end the theft of Americans’ personal information.”
- In 2020, McCarthy oversaw the work of the Republican China Task Force, which provided recommendations such as securing the national security supply chains, assessing and countering “security risks posed by PRC” concerning 5G, and “harmonizing export control policies” with allies and partners on critical technologies.

### **[The Outlook for the 118th Congress on China, Trade and Technology]**

- On January 10, 2023, the House voted 365-65 to establish a Select Committee on China. According to Select Committee Chair and Republican lawmaker Mike Gallagher, the Committee will “expose” China’s “coordinated whole-of-the-society strategy to undermine American leadership” and “identify long-overdue, commonsense approaches to counter CCP aggression.”
- Both Gallagher and House Speaker McCarthy expect the China Committee to build “an united front” and work on a “bipartisan basis.” Some commentators speculate that the Select Committee will take a leadership role in coordinating measures across different congressional committees.
- Some Democrats have argued that the negotiation of trade agreements with binding commitments—including the Indo-Pacific Economic Framework—requires formal congressional approval. Lawmakers have also urged the Biden administration to work with Congress more closely and increase “transparency” and “accountability” on trade-related negotiations.
- Republican leaders of the House’s Ways & Means Committee are reportedly eyeing “rigorous oversight and investigation” of trade-related negotiations, including USTR’s “lack of sufficient engagement and information” on the WTO negotiation of the COVID vaccine IP waiver.

### **[Keeping an Eye On...]**

- “We spent decades passing policies that welcomed China into the global system. In return, China has exported oppression, aggression, and anti-Americanism.” So says Kevin McCarthy, the new speaker of the U.S. House of Representatives. In one of his first acts as speaker, McCarthy established a bipartisan Select Committee on China, an idea that reportedly dawned on him in 2019 during a visit to Normandy on the 75th anniversary of D-Day. The purpose of the Select Committee will be to conduct hearings and suggest recommendations to the various House committees. This means that the Select Committee is not necessarily intended to possess legislative authority, as some observers have already noted. The Select Committee on China follows in the vein of the China Task Force; a group that then-Minority Leader Kevin McCarthy had announced in May 2020 and, in September 2020, delivered 82 key findings and more than 400-plus recommendations. That China Task Force is better remembered though for the walk out of the then-majority Democrats one day prior to the announcement of the formation of the task force. Despite subsequent invitations to all Members of the House to present ideas or bills for consideration and provide examples of supposedly malign Chinese Communist Party (CCP) activity in their districts, only Republicans responded to the call. Presumably, Speaker McCarthy aspires to do better this time around with the Select Committee on

China. For this to be the case, though, the House Republicans will need to show a degree of prudence and restraint. What are the chances of that? Time will tell if they can summon the necessary wisdom to responsibly champion a bipartisan approach on China in the fractious lower chamber.

**[Expanded Reading]**

- [House easily passes resolution to create bipartisan China select committee](#), *The Hill*, January 10, 2023
- [McCarthy Floor Remarks on Establishing the China Select Committee](#), Kevin McCarthy Speaker of the House, January 10, 2023
- [What Speaker McCarthy means for Silicon Valley](#), *The Washington Post*, January 9, 2023
- [Will US Speaker McCarthy go to Taiwan?](#), *Asia Times*, January 9, 2023
- [House Speaker Kevin McCarthy Opening Remarks](#), C-SPAN, January 7, 2023 [video]
- [What has Kevin McCarthy given up, and at what price?](#), *BBC*, January 7, 2023
- [What McCarthy has offered his GOP opponents, and what's under discussion](#), *The Hill*, January 6, 2023
- [What the split Congress can actually accomplish in 2023](#), *Vox*, January 3, 2023
- [China and the US are locked in a cold war. We must win it. Here's how we will](#), Reps. Kevin McCarthy & Mike Gallagher, *Fox News*, December 8, 2022
- [House GOP Leaders Demand Action to Curb TikTok's Dangerous Data Practices](#), Kevin McCarthy Speaker of the House, July 14, 2022
- [China Task Force Report](#), China Task Force, U.S. Congress, September 20, 2020



January 26, 2023

Volume 3, Issue 2

## What's Been Happening

### 1 — Closer Ties with Asian Partners Beyond Just Trade — 1

#### [In One Sentence]

- U.S. officials expect the Indo-Pacific Economic Framework (IPEF) to be “inclusive” and open to new members.
- U.S. President Joe Biden and Japanese Prime Minister Kishida Fumio have committed to “reaffirm our economic leadership” and to “sharpen our shared edge on economic security” during a joint visit in early January.
- The United States expects quick movement and a possible “early harvest agreement” from the U.S.-Taiwan Initiative on 21st-Century Trade negotiations.
- Despite calls from U.S. businesses and some lawmakers, the Biden administration is yet to include market access provisions in IPEF or negotiate new free trade deals.

#### [Mark the Essentials]

- Deputy U.S. Trade Representative Sarah Bianchi said that the United States plans to pursue “aggressive progress” in IPEF negotiations but has not established any “hard deadline” yet. Noting the “complexity” and amount of work in IPEF’s trade pillar, Bianchi added that “early harvests” might be more available in pillars such as digital trade, supply chain resilience, decarbonization and anti-corruption.
- As part of the bilateral effort to “advance a common trade agenda,” the U.S. and Japan recently launched a new task force to exchange information and promote best practices on human rights and international labor standards, as well as proscribe forced labor, in supply chains.
- According to a readout from the Office of the U.S. Trade Representative, officials from the United States and Taiwan “reached consensus in a number of areas and pledged to maintain an ambitious negotiating schedule.” The initiative plans to cover trade facilitation, small and medium-sized enterprises, good regulatory practices, and services domestic regulation.
- While delivering a speech in Washington, D.C., Japan’s Minister of Economy, Trade and Industry Nishimura Yasutoshi said that “some countries” have used “mutual economic interdependence” as a weapon and called for cooperation among “like-minded countries” to pursue “effective responses to economic coercion.”

### [Keeping an Eye On...]

- The IPEF roadshow continues apace. Text-based discussions on the crucial labor, environment, and digital economy chapters of the trade pillar are due to commence at the next round of negotiations. Draft texts for the supply chain, clean economy, and fair economy pillars were earlier tabled at the first round in Brisbane. There is little doubt that one of the Biden administration's key goals going into IPEF is to reconfigure trade and investment flows in the Indo-Pacific region and, thereby, shrink China's relative economic footprint and influence. Reaching for this objective will turn out to be an exercise in futility. Aside from the fact that China is deeply tied to its neighbors economically via conventional trade agreements (i.e. RCEP, CPTPP and DEPA accession talks), trade policy is not the appropriate instrument to reconfigure—let alone decouple—economic flows. Indeed, Washington ought to know better. Almost five years after the Trump administration's slash-and-burn Section 301 tariffs on US\$370 billion worth of U.S. imports from China, the U.S. runs an even larger trade deficit with China today compared to the pre-Section 301 days. On the other hand, the Treasury Department's foreign investment screening rules and the Commerce Department's technology controls against Huawei as well as, more recently, against the broader Chinese semiconductor and advanced computing ecosystem have had an immediate and swinging effect on supply chain reconfiguration. The message is clear: deploy leverage where one enjoys a whip hand and be selective in choice of policy instrument. And with regard to the remaining universe of economic flows, observe the existing rules of the game rather than concoct half-baked initiatives that barely move the needle a tick but end up sully the nation's free trader par excellence credentials that have been laboriously earned over the many decades since the end of World War II.

### [Expanded Reading]

- [U.S. to aggressively push for digital trade rules in Asia in 2023](#), *Nikkei Asia*, January 24, 2023 [Paywall]
- [U.S., Taiwan officials pledge ambitious trade negotiating schedule](#), *Reuters*, January 17, 2023 [Paywall]
- [Readout of January Negotiating Round Under the U.S.-Taiwan Initiative on 21st-Century Trade](#), Office of the United States Trade Representative, January 17, 2023
- [Joint Statement of the United States and Japan](#), The White House, January 13, 2023
- [Suzanne Clark's 2023 State of American Business Remarks](#), U.S. Chamber of Commerce, January 12, 2023
- [United States and Japan Launch Task Force to Promote Human Rights and International Labor Standards in Supply Chains](#), Office of the United States Trade Representative, January 6, 2023
- [U.S. and Japan to expand cooperation on key technologies beyond chips](#), *The Japan Times*, January 6, 2023
- [Japan minister calls for new world order to counter rise of authoritarian regimes](#), *Reuters*, January 5, 2023 [Paywall]
- [Japan's 2023 G7 Priorities and the Future Economic Order](#), event by Center for Strategic & International Studies, January 5, 2023

## 2 — U.S. and China's Duelling Views of Globalization — 2

### [In One Sentence]

- Associating Davos with a “specific,” traditional kind of globalization that needs “evolving,” U.S. Trade Representative Katherine Tai argued for a “new economic world order” that is “worker-centric” and focuses on “who we want to benefit from our vision and from the economic opportunity.”
- Meanwhile, China's Vice Premier Liu He discussed China's economic development plans and affirmed China's commitment to “socialist market economy” and “all-round opening-up.”

- In response to China's challenge at the World Trade Organization (WTO), the United States argued that its semiconductor export controls protect U.S. national security and, accordingly, concern non-reviewable "political matters."
- German lawmakers are reportedly calling on the European Union to decrease tariffs between the United States and the EU through the U.S.-EU Trade and Technology Council.
- The U.S. Department of State has established a new office for Critical and Emerging Technology as part of a "wider modernization agenda" in light of "intensifying" "competition to develop and deploy foundational technologies."

### **[Mark the Essentials]**

- At the annual State of American Business event, CEO of the U.S. Chamber of Commerce Suzanne Clark said that the U.S. is on a "downward trend on trade" and called on the Biden administration to resume negotiations on trade agreements, pursue "crucial" market access provisions in IPEF negotiations, and "go back to the negotiating table" with China on trade policy.
- Vice Premier Liu He also argued that the international community should "abandon the cold war mentality" and "uphold the right principles" to preserve an "equitable" and "effective" international economic order while calling for coordination of international macro policy and a global response to climate change.
- Japan is hoping to establish a permanent body on digital governance among "like-minded countries" to coordinate data governance practices, counter China's influence in the Global South, and allow African and Asian companies to more easily enter American, European and Japanese markets, according to Japan's minister for digital transformation Kono Taro.
- In support of the United States' Section 301 tariffs on Chinese goods, some U.S. manufacturers commented that the tariffs "level the playing field," "resuscitate America's industrial base," "counteract unfair competitive advantages" from China, and increase overall employment in the United States.
- When asked about Taiwan's decision to join Beijing's case challenging U.S. semiconductor export controls at the WTO as an interested third party, a senior U.S. trade official said they believe Taiwan supports the United States' position on the matter.

### **[Keeping an Eye On...]**

- Kudos to USTR Katherine Tai for her "worker-centric" vision of a new economic world order. Someday we might even get a glimpse of it in practice, and hopefully it will be an improvement on the 'vision' of Marx and Engels. On the other hand, if the labor chapter of the U.S.-Mexico-Canada agreement (USMCA) is what USTR Tai has in mind, then this does not amount to much of a vision at all. That chapter, with its rapid response enforcement mechanism and rules prohibiting the imports of goods made by forced labor, among others, is an improvement on labor chapters in previous trade agreements. But Mexico's industrial relations and its overall macroeconomy post-USMCA have hardly become more "worker-centric," and neither will that be the case of IPEF member states economies if USTR is indeed successful in importing the USMCA labor provisions in IPEF. On the other hand, in his keynote address in Davos, the departing Chinese Vice Premier Liu He laid out a forceful vision of China's structural reform framework. Five years earlier, Vice Premier Liu had pithily framed China's policy objectives around a Key Necessity (transitioning to high-quality development), a Main Task (excess capacity reductions), and Three Critical Battles (against financial risk, pollution, and poverty) during an earlier Davos address. To varying degrees, these objectives—save the Key Necessity—have been successfully addressed. Going forward, the focus of China's modernization efforts is to center around a

three-pronged approach: high-level opening-up; economic re-balancing based on consumption-led growth pursued in an open economy context; and a new social development goal of achieving common prosperity. The last two will not be easy to come by. The East Asian growth model has been singularly ineffective in re-balancing economies towards a more consumption-led model. For China, a key determinant in this regard further will be the extent to which entrepreneurship is allowed to prevail as a factor for wealth creation in society. In this era of President Xi Jinping's domestic preeminence, this latter attribute can no longer be taken for granted—the effort by Liu He to dispel suspicions to the contrary in Davos, notwithstanding.

### [Expanded Reading]

- [The Case for Trade](#), event by the World Economic Forum, January 18, 2023
- [Davos 2023: Special Address by Liu He, Vice-Premier of the People's Republic of China](#), World Economic Forum, January 17, 2023
- [United States - Measures on Certain Semiconductor and Other Products, and Related Services and Technologies - Communication from the United States](#), World Trade Organization, January 12, 2023
- [Suzanne Clark's 2023 State of American Business Remarks](#), U.S. Chamber of Commerce, January 12, 2023
- [Germany's Scholz Backs Joint EU Funding to Counter US Aid](#), *Bloomberg*, January 11, 2023 [Paywall]
- [Leading Japan's Digital Transformation: A Discussion with Kono Taro](#), event by Center for Strategic & International Studies, January 11, 2023
- [Readout of Deputy Secretary Graves' Meeting with Japan's Minister for Digital Transformation Taro Kono](#), U.S. Department of Commerce, January 11, 2023
- [Establishing the Office of the Special Envoy for Critical and Emerging Technology](#), U.S. Department of State, January 3, 2023
- [Public Docket - Request for Comments in Four-Year Review of Actions Taken in the Section 301 Investigation: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation](#), Executive Office of the President of the U.S., USTR Public Docket

## On the Hill

### [Legislative Development]

- The House passed a bill (331-97) to prohibit the sale and export of crude oil from the U.S. Strategic Petroleum Reserve to China. Rep. Mike Gallagher, Chairman of the House's Select Committee on China, openly supported the bill and criticized U.S. President Biden's earlier decision to "deplete our reserves to critically low levels" and "[sell] reserve petroleum to Chinese entities."
- U.S. legislators have also introduced bills to protect personal data from "unauthorized transmissions to servers located in China" or to prohibit the purchase of U.S. real estate "by members of the Chinese Communist Party and entities that are under the ownership, control, or influence of the Chinese Communist Party."

### [Hearings and Statements]

- The House passed a resolution to establish a Select Committee on China. Republican lawmaker Mike Gallagher, the Chair of the new China Committee, argued that the Committee will "identify long overdue common sense approaches to counter CCP aggression," including on "reclaiming U.S. economic independence."

- The Republican party has picked Rep. Jason Smith to chair the House’s Ways and Means Committee, who subsequently vowed to “examine using both trade policy and our tax code to re-shore and strengthen our supply chains.” The Republican party has added 10 new members to sit on the Ways & Means Committee.
- Rep. Adrian Smith, the former ranking member of the Ways and Means Committee, has previously stated on record that a Republican majority in the House creates a “great opportunity” to renew trade programs such as the Generalized System of Preferences and the Miscellaneous Tariff Bill.
- Republican leaders of the Ways and Means Committee have announced plans to impose “rigorous oversight and investigation” into the Biden administration’s trade negotiations, including the WTO negotiation on intellectual property waiver related to COVID-19 vaccines.
- In a joint letter to U.S. Secretary of Commerce Gina Raimondo, Democratic Senators Sherrod Brown and Bob Casey again called for the Commerce Department to impose tariffs on grain-oriented electrical steel products to prevent the circumvention of existing Section 232 tariffs on steel.

### [Expanded Reading]

- [Gallagher Votes to Prevent SPR Sales to China](#), Congressman Mike Gallagher Press Release, January 17, 2023
- [H.R.22 - Protecting America’s Strategic Petroleum Reserve from China Act](#), U.S. Congress
- [H.R.57 - Protecting Personal Data from Foreign Adversaries Act](#), U.S. Congress
- [Brown, Casey Urge Administration to Add Grain-Oriented Electrical Steel Derivative Products to Section 232 Steel Tariffs](#), U.S. Senator for Ohio Sherrod Brown Press Release, January 13, 2023
- [Rep. Roy introduces legislation to protect American land from Chinese Communist Party buyup](#), Representative Chip Roy Press Release, January 12, 2023
- [H.R.344 - Securing America’s Land from Foreign Interference Act](#)
- [Chairman Smith Welcomes New Republican Members of the House Ways and Means Committee for the 118th Congress](#), House Committee on Ways and Means, January 11, 2023
- [House easily passes resolution to create bipartisan China select committee](#), *The Hill*, January 10, 2023
- [Gallagher: Time to Push Back on CCP Aggression in Bipartisan Fashion](#), Congressman Mike Gallagher Press Release, January 10, 2023
- [J. Smith Statement on Selection as Next Chairman of the House Ways and Means Committee](#), House Committee on Ways and Means, January 9, 2023
- [Brady, A. Smith Warn USTR Against Destroying Documents on Biden Admin’s Decision to Surrender Key Medical Technology](#), House Committee on Ways and Means, October 20, 2022

## What's Been Happening

## 1 — When a Rising China and Revisionist (on trade) America Clash — 1

**[In One Sentence]**

- After the United States rejected two rulings in the World Trade Organization (WTO) against its tariffs on China, citing the national security exception, Washington and Beijing accused each other of undermining the WTO system and disrupting global trade.
- Industry groups are asking the Biden administration to clarify its semiconductor export control measures and say that the “complex,” “novel” and “ambiguous” measures hinder the competitiveness of the U.S. industry.
- The Biden administration is considering prohibiting any U.S. exports to Chinese tech company Huawei.
- The United States concluded an agreement with Japan and the Netherlands to restrict the exports of certain advanced semiconductors and chip-making equipment to China.

**[Mark the Essentials]**

- The U.S. has also opposed China’s “economic coercion” in cases such as China’s restrictions on Lithuanian goods. China is being hauled to the WTO dispute resolution process by the European Union over the matter but has rejected the U.S.’s request to join the dispute as a third party.
- On the sidelines of the World Economic Forum in Davos, trade ministers from 23 WTO members said they would prioritize the restoration of “a fully functioning dispute settlement mechanism” in future meetings of the WTO.
- Lam Research Corp., a U.S. company specializing in semiconductor manufacturing equipment, reported a shrinkage of revenue by 17% in the fourth quarter of 2022, in part due to declining demand in China and other Asian markets over concerns of Washington’s export control restrictions.
- Criticizing the United States’ “sneering indifference towards trade and in particular the WTO,” former WTO spokesperson Keith Rockwell argued that the United States has left the global multilateral trade system without “leadership” and left U.S. trade partners “unsure about Washington’s strategic vision.”

**[Keeping an Eye On...]**

- The Trump and the Biden administration’s argument for imposing unilateral, sky-high and now-judged-to-be illegal tariffs on China has not aged well. U.S.-China goods trade reached \$680 billion in 2022, surpassing the prior record of \$663.5 billion in 2018—the year the initial tranche of Sections 232 and Section 301 tariffs was imposed. Meanwhile, the bilateral trade deficit clocked in at \$382.9 billion—the second largest on record after the \$418 billion racked up in 2018. Much like the fate of the Trump-Biden

tariffs, trade ‘friendshoring’ in the name of supply chain resilience may be chic today but it will not age well either. In the currency arena, the U.S. and key allies are capable of maintaining a lock on the plumbing of the global payments and settlement infrastructure. Given the dollar's dominance, currency weaponization is a workable option. In the core technologies area, the U.S. and western partners enjoy significant pockets of advantage. As such, controls can be advantageously deployed—so long as they are restricted to truly ‘core’ technologies and cartelized smartly. In the trade arena, however, the horse has already bolted. China trades more intensively with a larger number of Indo-Pacific countries than the U.S. does, and this gap will only get larger. Indeed, as China transitions from being the world champion in intermediate goods production to also becoming a final consumer of the Indo-Pacific’s regionally produced goods, the siren call to divert trade flows within a ‘friendshored’ circle—beyond that related to a narrow sliver of ‘strategic goods’ with security implications—will be shown up to be what it truly is: an exercise in delusions that pays ever fewer dividends going forward. The blunt truth about populism and protectionism today is that it is essentially about protectionism in one major country. The other key actors are all more-or-less committed to the rules-based trading system and conventional forms of liberalization, and the gravitational market pull of the latter far exceeds the pull of the former.

None of this should breed complacency in Beijing though. ‘Economic coercion’-related policy instruments are being readied on both sides of the Atlantic (the European version is at the penultimate stage). Beijing’s formal and informal bans, boycotts, and trade sanctions against the likes of Australia, Norway, Lithuania, Canada, South Korea, Taiwan, etc. must be eschewed decisively. Like its recent balloon caper, such measures casually and nakedly violate international law. One rogue superpower trader is enough; the multilateral trading system does not need a second such rogue trader. Besides, if Beijing harbors any hope of acceding to the CPTPP and signing the CAI (Comprehensive Agreement on Investment) to anchor its new reform and opening up agenda, elementary sense would dictate that it should not be illegally sanctioning the gatekeepers of those agreements.

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- [US appeals against WTO verdicts on steel tariffs on China and other countries](#), *South China Morning Post*, January 28, 2023 [Paywall]
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- [USCBC Comments Regarding Implementation of Additional Export Controls](#), US-China Business Council, January 13, 2023

## 2 — U.S.' (Re-)Tailored Trade Partnerships: Leadership by Diktat — 2

### [In One Sentence]

- The Biden administration is proposing to negotiate new, “tailored” trade deals with the European Union and Japan to prevent the two from being disadvantaged by certain electric vehicle (EV) benefits under the Inflation Reduction Act (IRA).
- EU top officials told Brussels that the United States might be open to resolve some but not all of the EU’s concerns about the IRA, while Japan is yet to publicly comment on the latest updates.
- Reacting to the IRA, the European Commission is drafting and discussing policy approaches to incentivize and advance its own clean technology industry, including through subsidies and state aid.

### [Mark the Essentials]

- According to U.S. Treasury Secretary Janet Yellen, critical minerals extracted or processed in the EU and Japan do not help fulfill certain sourcing requirements for EV tax credits under the IRA. To prevent EU and Japanese products from being disadvantaged, Yellen proposed new agreements with the two to establish a “free-trade area” in critical minerals.
- The U.S.-EU Trade and Technology Council (TTC) plans to hold a roundtable discussion on due diligence in global supply chains on March 3, 2023, as part of their efforts to promote stakeholder engagement and share best practices.
- While Japan has agreed to join the United States and restrict its exports of advanced chip manufacturing equipment to China, an influential Japanese lawmaker said that Japan might choose to impose more lenient restrictions, adding that Japan merely shared with the U.S. “a recognition of the concern over the equipment.”
- Mark Gitenstein, Ambassador of the U.S. to EU, told Brussels that “difficult issues” concerning IRA and clean tech industrial policy needs to be resolved “at the leadership level,” proposing a U.S.-EU summit this year.
- Japan’s proposal to establish a permanent international data governance body at the G7 reportedly overlaps with some digital principles under discussion within the Indo-Pacific Economic Framework (IPEF). Industry sources said G7 and IPEF offer “two pathways to the same idea” and will not take momentum away from either.

### [Keeping an Eye On...]

- As per Brian Deese, director of the White House National Economic Council, what is good for America is apparently good for its allies and partners. “The United States is now leading [on deploying next-generation energy technologies in the context of the Inflation Reduction Act (IRA)], and other like-minded countries should both recognize that and also seek ... opportunities to partner with us ... we have nothing to apologize for, and frankly everything to be proud about,” he averred. The Europeans would beg to differ. In late-January, the European Commission released a draft (IRA countermeasures) plan titled “A Green Deal Industrial Plan for the Net-Zero Age.” The plan is based on four pillars, its most notable provision being the re-casting of a Temporary Crisis and Transition Framework (TCTF) that is expected to loosen Union-wide state aid rules in order to facilitate enhanced investment support schemes and targeted aid for production of strategic net-zero technologies. The support for new investment in facilities, including via tax credits, is specifically targeted “to those sectors where such delocalization risk has been identified, and [is to be] proportionate in terms of [IRA] aid amounts.” On a related note, France has gone further and asked for the setting up of an emergency “sovereign fund” that would in the short term redirect existing EU funding to



strategic industrial projects. The trans-Atlantic industrial subsidy battle is well-and-truly being joined. Question now is this: will this be a race to the gutter? And in which case, the U.S. and the EU will find a familiar party already entrenched in that uncovered space. No rewards for guessing who that party is. But it does beg a tantalizing question: could these over-the-top industrial subsidies in the largest global economic jurisdictions vitalize a trilateral (U.S.-EU-China) conversation on rationalizing and enforcing disciplines of global subsidies at the multilateral level? The U.S.-EU-Japan conversations on this topic have seemingly gone nowhere, and wisdom would dictate that the largest state provider of distortive industrial subsidies in the world should be brought into the tent than left—to borrow President Lyndon Johnson’s infelicitous quote—“outside the tent pissing in.”

### [Expanded Reading]

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- [EU Unveils a Green Investment Plan to Compete With US and China](#), *Bloomberg*, February 1, 2023 [Paywall]
- [The Green Deal Industrial Plan: putting Europe’s net-zero industry in the lead](#), European Commission, February 1, 2023
- [EU plans to relax curbs on tax credits in response to ‘toxic’ US subsidies](#), *Financial Times*, January 30, 2023 [Paywall]
- [Transatlantic Tech and Security: A Conversation with EU Commissioner Thierry Breton](#), Center for Strategic and International Studies, January 27, 2023
- [EU-US Trade & Technology Council: WG10 Roundtable on due diligence](#), European Commission, January 25, 2023
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- [Japan government sounds alarm over U.S. EV tax credits](#), *Reuters*, November 5, 2022 [Paywall]

## On the Hill

### [Legislative Developments]

- Republican Senators proposed to end China’s permanent normal trade relations status over concerns of alleged human right abuses, reintroducing an idea presented in the previous Congress.
- Republican lawmakers in both chambers introduced a number of bills on Taiwan, covering ideas such as the ending of the United States’ “One China” policy, the calling for a free trade deal with Taiwan, the support of Taiwan’s membership in international organizations, and measures to deter “Chinese aggression towards Taiwan.”
- A bipartisan group of House Ways and Means Committee members introduced a bill to repeal the Commerce Department’s decision to suspend tariffs on solar panel imports from four Southeast Asian countries. The suspension was originally announced in response to anxiety within the industry as the Commerce Department investigated alleged evasion of U.S. tariffs on Chinese solar products.

### [Hearings and Statements]

- In anticipation of U.S. Secretary of State Antony Blinken's visit to China—now postponed, Senate and House Republicans urged the administration to hold China accountable for “human rights violation, unfair trade practices, and increasing aggression in the Indo-Pacific region and beyond,” while Senate Foreign Relations Committee Chair Bob Menendez highlighted the importance of establishing effective communication channels with Beijing as well as on key issues such as Taiwan, human rights and economic coercion.
- House Speaker Kevin McCarthy named 12 Republican lawmakers to join the House's China Committee, including several members of the Taiwan Caucus and the former China Task Force. Several members will also serve concurrently on the Ways and Means Committee and the Armed Services Committee.
- Meanwhile, Democrat lawmaker and China Committee member Ro Khanna argued that the committee should focus on building U.S. innovation and manufacturing competitiveness through immigration and economic policy in addition to national security concerns.
- At a hearing on “winning the future versus China,” House Energy and Commerce Committee Chair Cathy McMorris Rodgers and Innovation, Data, and Commerce Subcommittee Ranking Member Jan Schakowsky both advocated for a federal data privacy law to ensure American tech leadership. U.S. President Joe Biden previously called on Congress to find common ground and protect the privacy of Americans from “big tech abuses.”

### [Keeping an Eye On...]

- Well, that was quick. In early January, in a fit of bipartisan fervor, the Republican-led House of Representatives voted to establish the Select Committee on the Strategic Competition Between the U.S. and the Chinese Communist Party by a margin of 365-65. Committee chairman, Mike Gallagher, swore that bipartisanship would remain the order of the day. Meaningful intramural disagreements would be hashed out courteously. And then a Chinese spy balloon wafted across the continental U.S.' airspace. An early bipartisan statement notwithstanding, Gallagher's early instinct was to lash out at the Biden administration's supposed (mis)handling of the situation—without so much as even a briefing or full knowledge of the facts. Other Republicans on the committee had even worse things to say about the president and the military which did not thrill their Democratic counterparts on the committee, to say the least. And this at a time when the Select Committee had not even held its first hearing. The balloon saga will soon be a blimp in the collective memory but make no mistake: the rank partisanship that Chairman Gallagher supposedly foreswore is very much present and here to stay. It will be a permanent backdrop to the Select Committee's work in turn, raising questions about the purpose and productivity of the committee. For those in Beijing inclined to revel in this almost instantaneous but predictable breakdown in bipartisanship, take note: the difference on China between the Democrats and the Republicans is between a hardline and thoughtful—or at least thinking—view on China and a hardline and non-thinking view on China. So, pick your poison. Tough views on China are here to stay. And as hysterical as some Republican viewpoints on China might appear to be, they have the power to shape the political narrative entering the 2024 campaign season and hem the Biden administration's space for stabilizing the bilateral relationship during the interim.

### [Expanded Reading]

- [Innovation, Data, and Commerce Subcommittee Hearing: “Economic Danger Zone: How America Competes to Win the Future Versus China”](#), hearing in front of the House Energy Committee, February 1, 2023

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- [Cotton, Colleagues Introduce Bill to End China's Permanent Normal Trade Status](#), Senator for Arkansas Tom Cotton Press Release, January 26, 2023
- [S.125 - China Trade Relations Act of 2023](#)
- [Rep. Young Kim Leads Bill to Support Taiwan's Participation in the International Monetary Fund](#), Young Kim Press Release, January 26, 2023
- [H.R.540 - To require the Secretary of the Treasury to pursue more equitable treatment of Taiwan at the international financial institutions, and for other purposes.](#)
- [EXCLUSIVE: Rep. Tiffany Introduces Resolution Calling for US to Recognize Taiwan Independence](#), Congressman Tom Tiffany Media, January 25, 2023
- [H.Con.Res.10 - Expressing the sense of Congress that the United States should resume normal diplomatic relations with Taiwan, negotiate a bilateral free trade agreement with Taiwan, and support Taiwan's membership in international organizations.](#)
- [H.R.554 - To deter Chinese aggression towards Taiwan by requiring the Secretary of the Treasury to publish a report on financial institutions and accounts connected to senior officials of the People's Republic of China, to restrict financial services for certain immediate family of such officials, and for other purposes.](#)
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February 24, 2023

Volume 3, Issue 4

## What's Been Happening

## 1 — National Economic Security Legislation and Regulation Grinds On — 1

**[In One Sentence]**

- U.S. Deputy Secretary of State Wendy Sherman said that a conflict in the Taiwan Strait is “a matter of economic security for the entire world,” likening it to the Ukraine crisis.
- The Biden administration is working with Congress to “expand [the] toolbox on economic coercion.”
- The United States’ trade in goods with China reached US\$680.7 billion in 2022—the highest on record.

**[Mark the Essentials]**

- The U.S. Department of Justice and the Department of Commerce jointly launched a “Disruptive Technology Strike Force” to investigate and prosecute criminal violations of export laws and export controls with an aim to protect U.S. advanced technologies from “nation-state adversaries.”
- In a recent report, the Senate Foreign Relations Committee Democrats urged the Biden administration to allocate more resources to advance U.S. diplomacy and development interests in the Indo-Pacific and counter China’s influence in the region. The report also called on the administration to “actively cultivate Congress as a partner.”
- Senators Todd Young and Chris Coons reintroduced an updated version of the Countering Economic Coercion Act, which would enable the President to increase tariffs against “foreign adversaries” committing economic coercion and support trading partners targeted by coercion through lowered tariffs or aid.
- House Foreign Affairs Committee Chair Michael McCaul and Appropriations Committee ranking member Rosa DeLauro jointly called on President Biden to take “immediate action” and screen outbound investments to China.

**[Keeping an Eye On...]**

- It is now approaching almost five years since the U.S. Congress enacted the Foreign Investment Risk Review Modernization Act (FIRRMA) and, in the process, inaugurated an active period of legislation and regulation related to national economic security. FIRRMA was followed by the all-encompassing Information and Communications Technology and Services Executive Order (ICTS EO) in May 2019, which provided the basis for the export controls clampdown on Huawei. These controls were dramatically expanded to the entire Chinese advanced computing and semiconductor ecosystem in the Commerce Department’s October 2022 Advanced Computing and Semiconductors Rule. Relatedly, protections against China’s collection and exploitation of sensitive data of U.S. persons was enumerated in the Biden administration’s Connected

Software EO in June 2021, and implemented in November 2021. Mitigation measures against perceived security risks have been presented more recently to TikTok, the viral video app, by the Committee on Foreign Investment in the United States (CFIUS). During these five years, a number of Chinese economic actors, both state-owned and private, have also been dumped into a plethora of lists—ranging from the Entities List, the Unverified List, the Chinese Military-Industrial Complex Companies (CMIC) List, and the Military End User List (although none was dropped into the Treasury Department’s Specially Designated Nationals and Blocked Persons List). This intensified legislative and regulatory focus on national economic security will persist in 2023. The Treasury and Commerce Departments are due to submit their 2023 Omnibus Bill-mandated reports on their respective “role in the establishment of a program to address the national security threats emanating from outbound investments [to the PRC]” by February 27<sup>th</sup>. Also, the Deputy Attorney General’s recent remarks on “disruptive technologies” suggests that a White House Executive Order on an outbound investment screening mechanism may be in the offing. Meantime, from a trade policy standpoint, bills to expand the toolkit of options to counter China’s ‘economic coercion’ have been introduced in both chambers of Congress. Corresponding European Union-wide legislation is at the ‘trilogue’ stage featuring advanced deliberations between the European Commission, Council and Parliament. The EU’s anti-coercion instrument-related deliberations follow in the wake of its Foreign Direct Investment Regulation, its toolbox of 5G-related mitigation measures, as well as its recently passed Foreign Subsidies Regulation. Clearly, the active spell of legislation and regulation on national economic security on both sides of the Atlantic with a focus on China continues, and will remain an important feature of the international economic landscape in 2023.

### [Expanded Reading]

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- [Justice and Commerce Departments Announce Creation of Disruptive Technology Strike Force](#), U.S. Department of Justice, February 16, 2023
- [Priorities for Economic Policy Toward China](#), American Enterprise Institute, February 16, 2023
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- [What cold war? U.S. trade with China hits new high](#), *Politico*, February 7, 2023
- [U.S. companies should not continue to fuel China’s strength](#), *The Washington Times*, February 7, 2023 [Paywall]
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## 2 — U.S. Trade and Tech Revamp Chugs Along, Allies Role Uncertain— 2

### [In One Sentence]

- A U.S. trade official noted that most existing U.S. trade agreements fail to address supply chain resiliency concerns.
- The White House highlighted the need to build data sharing mechanisms with allies and the private sector while addressing the “supply chain crisis.”
- In defense of its commitment to ensure “robust cross-border data flows,” the Biden administration noted that the approach will also align with a worker-centric trade policy.
- The Office of the U.S. Trade Representative (USTR) aims to ensure that the Indo-Pacific Economic Framework’s (IPEF) sustainability initiative does not create more non-tariff trade barriers.

### [Mark the Essentials]

- During the third round of meetings of the U.S.-Japan Partnership on Trade, the two sides discussed plans for a task force on human rights and labor standards, coordination efforts to respond to “third-country regulations” of concern with regard to the digital economy, as well as Japan’s concerns on the Inflation Reduction Act’s electric vehicle tax credit requirements.
- According to former Assistant USTR Dan Mullaney, the United States and the European Union have shared goals and overlapping interests in areas such as addressing non-market economy policies and avoiding inconsistent regulation and standards to facilitate trade, but must get specific on the exact policies and standards if concrete progress is to be made within the US-EU Trade and Technology Council (TTC).
- Both the U.S. and the EU plan to work on shared standards in electric vehicles (EV) and explore ways in which digital technologies can be used to facilitate trade at the next meeting of the Trade and Technology Council (TTC). On February 15th however, the Biden administration independently released its own EV charging standards and mandated that, come July 2024, 55% of the cost of EV charging equipment funded through the Bipartisan Infrastructure Law must feature domestically manufactured components.
- Canadian Ministers Anita Anand and François-Philippe Champagne said that Canada could play a “unique” role as the U.S. strengthens economic and supply chain resiliency, pointing to Canada’s traditional exemption from ‘Buy America’ rules, North America’s coordination with regard to semiconductor manufacturing, and Canada’s abundant critical mineral resources.

### [Keeping an Eye On...]

- A U.S. trade official noted that most existing U.S. trade agreements fail to address supply chain resiliency concerns. This official is correct. U.S. trade agreements are meant to facilitate market access-based reciprocal trade liberalization; they are not intended to facilitate trade diversion by way of ‘friendshoring’, be it in the name of supply chain resiliency or ‘worker-centric’ protectionism. More fundamentally, the race to ‘friendshore’ stands in polar contrast to the existing practice of multilateral liberalization. The latter is predicated on the ‘most favored nation’ (MFN) clause, i.e., extending the same trade terms to all trading partners; the latter rests on selective preferences exchanged among friends utilizing skewed rules of origin. And although free trade agreements are an exception to the MFN principle and discriminate between insiders and outsiders, the most recent ‘friendshoring’ pact—the US, Mexico, Canada Agreement (USMCA)—was the first such agreement to actually *raise* barriers. Expect the Indo-Pacific Economic Framework for Prosperity (IPEF) to more-or-less follow in this vein. Is it any surprise, then, that USTR continues to resolutely stand

against constructive reform of the WTO's dispute settlement function? And that the national security exception has been turned into a defense of first and last recourse at the WTO by USTR? A 'friendshored' trading order stands in contrast to—and in violation of—key principles of the postwar-rules based trading system. And in which case, a number of 'friendshoring' provisions will be found to be in violation of these trade rules; the national security defense claim notwithstanding.

- Going forward, the operative question is not so much whether Washington will make an about-face and embrace conventional or MFN means of trade liberalization. Rather, the question is whether, and the extent to which, other countries in Washington's orbit will choose to restrain themselves from partaking in the benefits of 'friendshored' trade and investment policy measures that are clearly inconsistent with WTO rules. Judging by the European Union's oscillating response to the vast sums shoveled out in the Biden administration's WTO non-compliant Inflation Reduction Act (IRA), the pragmatic temptation to cut side deals and enter the charmed circle of subsidized friends is likely to be far more powerful than ideologically standing up in solitary defense of global rules. That said, that which is individually beneficial could yet at the aggregate level come to haunt the trading order systemically. The rules-based international trading system stands at an important inflection moment. And America's allies have an important role to play in helping to preserve that order. Deepening WTO-complaint trading arrangements with all interested parties on a non-bloc basis should remain an essential component of their toolkit.

#### [Expanded Reading]

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- [Remarks by Under Secretary Marisa Lago at the 2023 Washington International Trade Conference](#), International Trade Administration, February 14, 2023
- [Day 1 Virtual: WITA Washington International Trade Conference](#), Washington International Trade Association, February 13, 2023
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- [Ministers promote integration of North American defence industrial base](#), Government of Canada, February 10, 2023
- [US Seeks Critical-Mineral Pacts With Japan, UK to Curb China](#), *Bloomberg*, February 10, 2023 [Paywall]
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- [Supply Chain Visibility Isn't Just a Catchphrase; It's an Imperative](#), *SupplyChainBrain*, February 3, 2023
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### [Legislative Development]

- House Homeland Security Committee Chair Mark Green re-introduced a bill that will use revenues from tariffs on Chinese goods to “near-shore” manufacturing from China to the Latin America-Caribbean region.
- Senators Todd Young and Chris Coons reintroduced a bill to “equip the president with new tools” to “counter economic coercion of allies and partners” by “countries like China and Russia.”

### [Hearings and Statements]

- Senate Finance Committee Chair Ron Wyden, joined by ranking member Mike Crapo and other committee members, committed to improve U.S. trade laws, modernize trade law enforcement, and expand the U.S. Customs and Border Protection (CBP)’s toolbox to address “trade cheats in China and around the world” that “evade U.S. trade laws.”
- Calling for “bold, impactful trade agreements,” Senate Finance Committee ranking member Mike Crapo said Congress will “step up and in a bipartisan fashion” if the administration continues to “take a timeout on trade.”
- House China Committee member Andy Kim said he would “push” for conversations on the economy, trade and innovation at the China Committee in addition to military, security and deterrence concerns related to Taiwan.
- House China Committee ranking member Raja Krishnamoorthi committed to “counteract the CCP’s escalating aggression,” including “its threats against Taiwan’s democracy, its weaponization of TikTok, and its theft of...American intellectual property.”
- The House China Committee has picked former staff member of the Senate Select Committee on Intelligence David Hanke as the committee’s chief of staff and former chief Republican counsel of the Senate Judiciary Committee’s privacy, technology and the law subcommittee Julissa Walsh as the committee’s general counsel.

### [Expanded Reading]

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- [Day 2 In-Person: WITA Washington International Trade Conference](#), Washington International Trade Association, February 14, 2023
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March 10, 2023

Volume 3, Issue 5

## What's Been Happening

## 1 — Decouple with China, but at What Cost? — 1

**[In One Sentence]**

- At the inaugural hearing of the new House Select Committee on China, committee chairman Mike Gallagher described competition with China as an “existential struggle over what life will look like in the 21st century.”
- The Commerce Department’s Bureau of Industry and Security (BIS) continues to limit U.S. firms’ support for China’s military by placing PRC entities involved in the latter’s military-industrial complex on lists that require licenses for exports.
- Since October, the White House has restricted China’s ability to access advanced chips by adding numerous items to its export control list, and it has recently seen success in pushing allied nations like the Netherlands and Japan to follow its lead on selective technologies and critical materials.
- Twelve senators introduced a bipartisan bill with White House backing that would provide new tools to the administration to restrict technology from foreign adversaries that could pose a threat to national security.
- China published a sweeping report in late February entitled ‘U.S. Hegemony and its Perils,’ which took aim at Washington’s supposed “slew of excuses to clamp down on China’s high-tech enterprises” and the “long-arm jurisdiction” underlying its sanctions.

**[Mark the Essentials]**

- Leading members of the Senate Intelligence Committee recently sent a letter to the Commerce Department requesting that it review critical technologies not yet covered by export controls on China, and that it furthermore exercise its authority under the Defense Production Act to force U.S. firms to disclose their ties to Chinese state-owned enterprises. House lawmakers in the Foreign Affairs Committee have also held Commerce’s feet to the fire by calling into question its coordination with the Treasury Department to limit U.S. investments into Chinese entities that feature on various control lists.
- The Bureau of Industry and Security (BIS) and the Justice Department have jointly launched a ‘Disruptive Technology Strike Force’ to investigate and prosecute global violations of U.S. export controls in concert with allied intelligence and law enforcement agencies. Many of the items in question—AI, quantum computing, and biotechnology—do have security implications but references to these technologies’ “potential to alter the world’s balance of power” during the launch suggests the strike force is wrapped up in the context of general global tensions as well.

- It plays well in Congress to call for economic decoupling with China, but lawmakers and the executive branch have been reluctant thus far to aggressively back up their rhetoric. Fully, 70% of applications to export controlled items to ‘blacklisted’ Chinese firms (down from over 90% at the height of the Trump era ‘trade war’) were granted by BIS last year.

### [Keeping an Eye On...]

- What’s up with the anti-TikTok frenzy on Capitol Hill, the United States’ latest “foreign adversary”? In order to counter its supposed enabling of surveillance by the Chinese Communist Party and facilitation of malign election-related influence campaigns, a group of 12 bipartisan senators introduced the *Restricting the Emergence of Security Threats that Risk Information and Communications Technology (RESTRICT) Act*. The Act claims to “better empower the Department of Commerce to review, prevent, and mitigate information communications and technology transactions that pose undue risk to [U.S.] national security.” This is all fine—except that there are already multiple and overlapping authorities aimed at preventing such ICTS risks from China and other foreign adversaries. In May 2019, the Trump administration issued a wide-ranging Information and Communications Technology and Services Executive Order (ICTS E.O.), which the Biden administration has faithfully implemented to address the risks of introduction or prevalence of “untrusted” ICTS products on U.S. soil. In June 2021, the Biden administration corrected the previous administration’s TikTok and WeChat-related Executive Orders and issued its own Connected Software E.O. to protect against digital collection and exploitation of sensitive data of U.S. persons, including by TikTok. Relatedly, the Biden administration’s Committee on Foreign Investment in the United States (CFIUS) appears to have worked out—or is on the verge of working out—a national security mitigation agreement with TikTok that would have the app’s U.S. data stored locally on Oracle servers, its source code and recommendation algorithm monitored by third party audit, and its operations placed under the control of an independent board that reports to CFIUS. Which, then, begs the question: Why is the White House backing the RESTRICT Act on the Hill? Either the White House believes in its heart that CFIUS is not up to the task of mitigating foreign security risks with regard to social media/connected software, or it is its considered view that no successful Chinese app should be allowed to operate on U.S. soil. If it is the latter case, the White House should be upfront and state its intentions plainly. The one-sided Tech Cold War continues inexorably, and the RESTRICT Act is just its latest manifestation.

### [Expanded Reading]

- [White House backs bipartisan bill that could be used to ban TikTok](#), *NBC News*, March 7, 2023
- [The US is still approving export licenses for blacklisted firms from China, including Huawei and SMIC](#), *TechWireAsia*, March 7, 2023
- [China says US trying to 'deprive' it of right to develop in tech row](#), *Reuters*, March 6, 2023 [Paywall]
- [The China Consensus: Do Almost Nothing](#), American Enterprise Institute, March 2, 2023
- [US House panel on China cites 'existential struggle' at first hearing](#), *Reuters*, March 1, 2023 [Paywall]
- [Huawei Export Licenses Could Be Revoked by U.S.](#), *The Wall Street Journal*, February 28, 2023 [Paywall]
- [BIS Approved More than \\$23B of Tech Licenses to Blacklisted Companies](#), House Committee on Foreign Affairs, February 28, 2023
- [U.S. House China panel holds first hearing after lawmakers push seven bills targeting Beijing](#), *CNBC*, February 23, 2023
- [United States–China semiconductor standoff: A supply chain under stress](#), Atlantic Council, February 23, 2023
- [McCaul, Lawler Send Letter to Commerce on CCP Trade with SSTs in Violation of U.S. Export Control Laws](#), House Committee on Foreign Affairs, February 17, 2023

- [Justice and Commerce Departments Announce Creation of Disruptive Technology Strike Force](#), U.S. Department of Justice, February 16, 2023
- [Warner & Rubio Urge Biden Admin to Prevent Flow of U.S. Innovation to China's Military Industrial Complex](#), Office of Sen. Mark Warner (D-VA), February 9, 2023

## 2 — U.S. Calls for Multilateral Trade Reform, Chooses Unilateralist or Bloc-based Pathways— 2

### [In One Sentence]

- USTR Katherine Tai spoke at the Munich Security Conference and reaffirmed her statement that the WTO is on “thin ice” following what the U.S. sees as several spurious decisions by the body’s dispute resolution mechanism that deny the U.S.’ right to create trade barriers citing national security reasons.
- Despite Washington’s misgivings with perceived ‘exploitation’ of the WTO’s dispute settlement process, the U.S. says it remains committed to the WTO and is pushing to reform the dispute settlement function in a new round of informal talks that began at the end of February.
- Several WTO members—including the European Union, China, and Japan—are pushing for more formal talks and text-based negotiations to finalize dispute settlement reform in time for the body’s 13th Ministerial Conference next February.

### [Mark the Essentials]

- As the U.S. prepares to host the Asia-Pacific Economic Cooperation (APEC) leaders’ summit in San Francisco this November, a first round of preliminary meetings between trade officials has just concluded. In the talks, U.S. officials pushed resilient supply chains and increased transpacific trade volumes as priorities.
- Next week, the second negotiating round of the Indo-Pacific Economic Forum (IPEF) is set to take place in Bali, Indonesia. A ‘special round’ of negotiations on the three pillars of supply chains; clean energy, decarbonization and infrastructure; and tax and anti-corruption was held in New Delhi last month, while the Bali talks are slated to focus on the first pillar: trade. U.S. negotiators are expected to table a digital trade text at the upcoming Bali round.
- A scheduled meeting between EU Trade Commissioner Valdis Dombrovskis and USTR Tai was canceled due to the EU commissioner testing positive for COVID. Calls from civil society and prominent officials, meantime, for a transatlantic ‘truce’ on the subsidy race and a limited trade facilitation agreements for critical minerals are gaining traction however, as both sides aim to lay the groundwork for their TTC meeting in Sweden later this May.
- The U.S. trade agenda is finding a willing audience among its existing treaty and FTA partners in the Indo-Pacific (such as Japan, South Korea, Singapore, and Australia), as well as with many Pacific island nations. IPEF’s ‘buffet style’ structure means that there is relatively less solidarity though among its participating member states. India, for example, has been consistently urging Washington to push for an “early harvest of deliverables” while some Southeast Asian member states (Indonesia, Malaysia, and Vietnam) are willing to move more slowly and engage selectively with U.S. trade and investment initiatives insofar as they improve their economies and enable hedging against Chinese economic influence. U.S.-EU trade relations have also been complicated by the spell of diverging tactics which came in the wake of the Inflation Reduction Act’s passage last August, but the EU’s announcement of an industrial policy overhaul last month and continued engagement in the TTC suggests that transatlantic trade agendas are moving forward in tandem.

## [Keeping an Eye On...]

- So, after having lost three successive cases over its interpretation and use of the GATT Article XXI national security exception at the WTO dispute settlement system's panel stage, USTR Tai claims that it is the WTO, and not Washington, who is on "thin ice". Earlier in January, the U.S. Ambassador to the WTO Maria Pagan sought an "authoritative interpretation" of the security exception. The United States' wish should be granted. As per Article IX:2 of the Marrakesh Agreement establishing the WTO, the organization's Ministerial Conference and General Council (its supreme decision-making body) is vested with the authority to adopt an 'authoritative interpretation' of any contested GATT provision, including the national security exception, by a three-fourths majority of the membership. Future WTO panels would be jurisprudentially bound by that interpretation. The cold hard reality of the U.S.' request for an "authoritative interpretation" is that Washington will not be able to muster even a smidgen of the WTO's membership behind its cause—let alone muster a three-fourth majority. As per Washington's view of GATT Article XXI, the security exception is entirely 'self-judging'. Issues of national security, being political matters, are not susceptible to third-party review and, as such, WTO panels lack the authority to review the invocation of Article XXI by a member (in this case the United States). Others—or rather everybody else—would beg to disagree. In its written submission, the European Union observed that a dispute settlement panel was entirely within its right to "review whether the interests at stake can 'reasonably' or 'plausibly' be considered essential security interests." For its part, Japan submitted that the term essential security interest is "not unbounded" and is perfectly justiciable, albeit with appropriate caution. In varying forms, Australia, Canada and other close U.S. allies, too, have hewed to this overwhelmingly wide interpretative consensus while at the same time enjoining WTO panels to accord a "high level of deference" to the invoking member's use of the exception. Truth be told, the U.S. delegate at the time of the drafting of the security exception too had noted that while "some latitude [should be afforded] for security measures," it cannot be the case that the exception is interpreted "so broad[ly] that, under the guise of security, countries will put on measures which really have a commercial [and protectionist] purpose." China's position concurs with the said U.S. delegate—while WTO panels should "exercise extreme caution...in not prejudicing a Member's right to protect its essential security interests," it must also "prevent [bad faith] abuse of Article XXI and evasion of WTO obligations" by the invoking Member. So, perhaps it is indeed time to bring on a WTO General Council session to adopt an "authoritative interpretation" of GATT Article XXI. Far from mustering a three-fourth majority, the United States will find fewer supporters in its corner than even Russia managed at the UN General Assembly on the Ukraine invasion condemnation vote.

## [Expanded Reading]

- [APEC First Senior Officials' Meeting Strengthens Multilateral Cooperation](#), U.S. Department of State, March 3, 2023
- [USTR Releases President Biden's 2023 Trade Policy Agenda and 2022 Annual Report](#), Office of the U.S. Trade Representative (USTR), March 1, 2023
- [Readout of the First Senior Officials Meeting of the United States-Pacific Islands Trade and Investment Dialogue](#), Office of the U.S. Trade Representative (USTR), March 1, 2023
- [A fireside conversation with US Ambassador to Vietnam Marc E. Knapper](#), Brookings, March 1, 2023
- [EU Statement at the WTO Formal Trade Negotiating Committee](#), Permanent Mission of the European Union to the World Trade Organization (WTO), February 28, 2023

- [APEC Officials Strengthen Sustainable and Inclusive Growth for All](#), Asia-Pacific Economic Cooperation (APEC), February 28, 2023
- [A green plea for climate trade peace](#), *Politico*, February 27, 2023
- [Letter: U.S. and EU Groups Call for Climate Peace Clause](#), *Public Citizen*, February 27, 2023
- [Yellen says EV battery mineral trade pacts can likely bypass Congress](#), *Reuters*, February 24, 2023 [Paywall]
- [USTR Releases Annual Report on China's WTO Compliance](#), Office of the U.S. Trade Representative (USTR), February 24, 2023
- [United States to Participate in Second Indo-Pacific Economic Framework Negotiating Round in Indonesia](#), Office of the U.S. Trade Representative (USTR), February 24, 2023
- [EU calls for WTO to address current policy challenges through focused deliberation](#), European Commission, February 21, 2023
- [Washington grapples for a post-globalization vision](#), *Politico*, February 21, 2023
- [Readout of Ambassador Katherine Tai's Meeting with European Union Executive Vice President Valdis Dombrovskis](#), Office of the U.S. Trade Representative (USTR), February 17, 2023
- [MSC 2023: Protectonic Shifts - Global Trade Under Pressure](#), *BR24*, February 17, 2023
- [E-commerce negotiations enter final lap](#), World Trade Organization (WTO), February 16, 2023
- [WTO director general: dispute settlement reform a 'priority'](#), *Reuters*, February 13, 2023 [Paywall]
- [IPEF Negotiators Eye Partial Accord by Late May](#), *Jiji Press*, February 12, 2023

## On the Hill

### [Legislative Developments]

- The House Foreign Affairs Committee approved 11 bills related to China at the end of last month. Notable among these measures is the “PRC is Not a Developing Country Act,” which would instruct the State Department to change China’s status in international organizations. The “Deterring America’s Technological Adversaries Act”—one of the few measures which was not unanimously approved and passed along party lines—would empower the White House to ban TikTok and other applications that pose a threat to national security. The committee also advanced measures which would enable export controls on components for undersea cables, and appropriate US\$325 million to counter China’s ‘malign economic influence.’
- The House Financial Services Committee also endorsed three China-related bills. The “Chinese Currency Accountability Act” would instruct the Treasury secretary to oppose any increases in the weight of the renminbi in the basket of currencies—the U.S. dollar, euro, renminbi, yen, and British pound—that set the rates for International Monetary Fund (IMF) transactions. The “China Exchange Rate Transparency Act” would call on the U.S. IMF executive director to push China to increase transparency in its exchange rates. Finally, the “China Financial Threat Mitigation Act” would require the Treasury to draft a report on the risk China poses to U.S. and global financial stability.
- House lawmakers in the Foreign Affairs Committee also introduced a companion to a Senate bill called the “Countering Economic Coercion Act of 2023.” The Act would empower the President to take measures like waiving certain requirements to facilitate export financing, expediting export licenses, lowering duties on affected countries, and raising duties on coercive ones.

## [Hearings and Statements]

- The chair of the new House Select Committee on China, Mike Gallagher (R-WI), thinks that one of the panel's priorities should be to address the "complete absence" on the hill of a trade agenda towards Taiwan. Panel member Darin LaHood (R-IL), also a member of the Ways & Means Committee, was tapped to take the lead on those efforts. Gallagher recently returned from a high profile trip to the island last month.
- The inaugural hearing of the China Select Committee featured discussion of several trade issues including the bilateral trade deficit, China's role in the WTO, expanded U.S. industrial policy, and the prospects of new Trade Promotion Authority (TPA) which could facilitate U.S. entry into the Comprehensive and Progressive Agreement of Trans-Pacific Partnership (CPTPP) free trade area.
- Seven Republican senators introduced a resolution which would overturn a Commerce Department rule that delays any imposition of tariffs on solar manufacturers found to be circumventing U.S. trade remedies until June 2024. The sector is currently under investigation by Commerce and provisional results suggest that several Chinese firms are dodging U.S. anti-dumping and countervailing duties by manufacturing products set for U.S. import in Southeast Asia.
- Senators Richard Blumenthal (D-CT) and Jerry Moran (R-KS) sent a letter to Treasury Secretary Janet Yellen in the waning weeks of February urging the Department to swiftly conclude an interagency probe into TikTok's Chinese parent company Byte Dance, and take steps to cordon off Americans' personal and consumer data. This process may be redundant if the DATA Act passes and TikTok is subsequently banned.
- The Senate Finance Committee launched fresh efforts to address China's unfair trade practices with a hearing on the modernization of U.S. Customs and Border Protection's procedures and enforcement mechanisms.

## [Expanded Reading]

- [China Select Committee hearing highlights partisan divide on Beijing-countering strategy](#), *Politico*, March 1, 2023
- [US House Committee Advances a Slew of Sanctions Bills Related to China and Taiwan](#), *Bloomberg*, February 28, 2023 [Paywall]
- [Transcript: Reps. Mike Gallagher and Raja Krishnamoorthi on "Face the Nation"](#), *CBS News*, February 26
- [H.R.1189 - Undersea Cable Control Act](#), *Congress.gov*, February 24, 2023
- [H.R.1157 - Countering the PRC Malign Influence Fund Authorization Act of 2023](#), *Congress.gov*, February 24, 2023
- [H.R.1156 - China Financial Threat Mitigation Act of 2023](#), *Congress.gov*, February 24, 2023
- [H.R.1153 - Deterring America's Technological Adversaries Act](#), *Congress.gov*, February 24, 2023
- [H.R.1107 - PRC is Not a Developing Country Act](#), *Congress.gov*, February 21, 2023
- [S.J.Res.15 - A joint resolution disapproving the rule submitted by the Department of Commerce relating to "Procedures Covering Suspension of Liquidation, Duties and Estimated Duties in Accord With Presidential Proclamation 10414"](#), *Congress.gov*, February 16, 2023
- [Sens. Moran, Blumenthal Call for Restrictions of TikTok's Operations Amid Concerns Over National Security and Consumer Privacy](#), Office of Sen. Jerry Moran (R-KS), February 16, 2023
- [Ending Trade that Cheats American Workers By Modernizing Trade Laws and Enforcement, Fighting Forced Labor, Eliminating Counterfeits, and Leveling the Playing Field](#), Hearing of the U.S. Senate Committee on Finance, February 16, 2023
- [S.295 - Countering Economic Coercion Act of 2023](#), *Congress.gov*, February 7, 2023
- [H.R.839 - China Exchange Rate Transparency Act of 2023](#), *Congress.gov*, February 6, 2023
- [H.R.510 - Chinese Currency Accountability Act of 2023](#), *Congress.gov*, January 25, 2023

March 24, 2023

Volume 3, Issue 6

## What's Been Happening

## 1 — Competition with China Brings New Rules and New Plans— 1

**[In One Sentence]**

- The Biden administration has demanded that TikTok divest its American business from Bytedance, its China-based parent, in order to address what the U.S. government sees as a potential risk to national security.
- The Commerce Department outlined its proposed “national security guardrails” to ensure that the CHIPS Act incentive program does not in any way flow to or benefit “foreign countries of concern,” including China.
- A new U.S. International Trade Commission report suggests that the U.S. Section 232 tariffs on steel and aluminum succeeded in lowering imports from China.
- The Biden administration’s fiscal year 2023 budget request includes \$50 million to “advance” the Indo-Pacific Economic Framework for Prosperity and billions more to “out-compete” China.

**[Mark the Essentials]**

- While the idea to divest TikTok may be a better alternative to banning, experts suggest that a new framework is needed for not just Chinese tech companies but how all technology and social media companies operate in the United States.
- The Commerce Department’s proposal would restrict any and all facility expansions in China of leading-edge chips and advanced technologies for a duration of 10 years by award recipients.
- The U.S. International Trade Commission report also suggests that both the Section 232 and 301 tariffs had a “largely negative” impact on downstream production, increasing prices on a “nearly one-to-one” basis.
- While further details of IPEF funding plans still have yet to be released, the White House budget blueprint sets out to target China “through game-changing investments in infrastructure” in the Indo-Pacific.

**[Keeping an Eye On...]**

- Technology competition with and selective decoupling from China continues apace. On Thursday, March 23, in a spectacle on Capitol Hill, TikTok CEO Shou Zi Chew was raked over the coals on TikTok’s privacy and data security practices as well as its ties to the Chinese Communist Party by House members from both sides of the aisle. Despite TikTok’s efforts to go “above and beyond” in working with the Biden administration to secure the data of its 100 million-plus American users, the app faces potentially a looming ban in the United States. Furthermore, the RESTRICT Act, introduced in the Senate in early March, takes aim at additional Chinese players—Tencent’s WeChat, Alibaba’s Alipay, and the increasingly popular online marketplace Temu—by granting the Commerce Department the authority to block their U.S. operations, if needed. An

anti-economic coercion bill targeting China is also in the works. Earlier in the week, on Monday, March 20, the Commerce Department listed out the proposed national security guardrails for its \$39 billion CHIPS for America incentives program for semiconductor production that is designed to ensure that its benefits do not advertently or inadvertently flow to “malign actors” such as China. The department’s proposed rules foreclose all transactions that expand manufacturing capacity in China, save for legacy semiconductors that are to be used or consumed in that country. The “significant transactions” threshold has deliberately been kept low. On the other hand, the broad “family of technologies” initially sought to be captured by National Security Advisor Jake Sullivan within the proposed outbound investment screening mechanism appears to have given way to a more nuanced and narrower approach proposed by the Treasury Department. This approach is more in keeping with Treasury’s proposed draft bill of mid-2022, the Sensitive Technologies Supply Chain Risk Management Act, that had sought to impose (merely) a reporting requirement for notifiable outbound investment transactions related to sensitive technologies. The objective was—and, again, appears to be—to better inform the U.S. government’s assessment of national security concerns arising from outbound U.S. investments before placing definitive blocks on a subset of these transactions. The technology Cold War that the Trump administration initiated and which the Biden administration has redoubled remains a work in progress. And while it might be easy to criticize some of its overreach, it is just as clear that much deliberative thought and due diligence is going into its planning and execution.

### [Expanded Reading]

- [Biden and Trump agree on at least one thing: Something has to be done about TikTok. But it’s not that easy](#), *Business Insider*, March 18, 2023
- [Economic Impact of Section 232 and 301 Tariffs on U.S. Industries](#), United States International Trade Commission, March 2023
- [Certain Effects of Section 232 and 301 Tariffs Reduced Imports and Increased Prices and Production in Many U.S. Industries](#), United States International Trade Commission, March 15, 2023
- [Office of the United States Trade Representative Fiscal Year 2024 Budget](#), Executive Office of the President, March 2023
- [FACT SHEET: The President’s Budget for Fiscal Year 2024](#), The White House, March 9, 2023
- [Biden budget includes billion for Pacific islands to counter China](#), *PBS News*, March 9, 2023

## 2 — (So-called) U.S. Trade Agreements Gather Steam — 2

### [In One Sentence]

- According to the Indonesian government, the Office of the U.S. Trade Representative will host an Indo-Pacific Economic Framework for Prosperity ministerial meeting in May; presumably in late-May.
- The U.S. and India are committed to “fast action” within their newly launched Strategic Trade Dialogue.
- In late March, the U.S.-EU Trade and Technology Council will hold a roundtable event with stakeholders to discuss ongoing trans-Atlantic conversations about digital identity.
- The Office of the U.S. Trade Representative outlined its goals for five chapters to forge a “high-ambition” trade agreement with Taiwan.
- The U.S. and the European Union have agreed to launch negotiations on an agreement to provide the bloc’s industry with access to new electric vehicle tax credits in the U.S.

### [Mark the Essentials]

- The second round of IPEF negotiations in Bali, which covered all four of the framework’s pillars, ended on March 19. A third round is scheduled for early-May in Singapore.



- Amid growing concerns about the U.S. further decoupling with China, Secretary of Commerce Raimondo said that “the United States does not seek to decouple from China, nor does it seek a technological decoupling from China.”
- The U.S. and Taiwan are aiming to address “red tape” issues, smoothe regulatory practices, promote anti-corruption, support SMEs, and further labor rights protection, while lacking commitments on market access.
- European Commission President Ursula von der Leyen and President Biden also agreed in their joint statement to launch a ‘Clean Energy Incentives Dialogue’ to coordinate their respective incentives programs related to clean technologies.

### [Keeping an Eye On...]

- During the week of March 13-19, at the second round of the Indo-Pacific Economic Framework (IPEF) negotiations in Bali, Indonesia, the United States Trade Representative tabled its all-important labor, environment and digital trade texts. The labor and environment texts are more-or-less expected to track their USMCA (U.S.-Mexico-Canada Agreement) predecessor; the digital trade text is being keenly watched on the other hand, given that the blindly pro-business consensus hitherto on provisions favoring Big Tech in digital trade agreements has shifted markedly on the Hill and within the Biden administration. At this time, the text is being closely held...although it is just a matter of time before key provisions get leaked or released. Earlier in the week meantime, on Tuesday, March 21, European Commission Vice-President Dombrovskis shared with EU lawmakers the “first outline, first ideas” proposed by Washington with regard to a U.S.-EU Critical Minerals Pact. The purpose of the pact is to ensure that European businesses can enjoy access to the electric vehicle tax credit incentives contained in the U.S. Inflation Reduction Act—specifically the critical minerals sourcing requirements that favor the U.S.’ FTA partners. The Critical Minerals Pact could yet be months in the making. A common thread ties the proposed IPEF agreement and the U.S.-EU Critical Minerals Pact together. Both are being packaged by USTR as an ‘FTA-type’ agreement even though neither is an FTA or FTA-equivalent, and the Biden administration plans to pass both agreements as sole executive agreements. Congress will not get an up-or-down vote on either agreement. Plainly stated, this amounts to an end-run—if not outright abuse—of Congress’ foreign commerce-related delegated powers, given that Congress enjoys the right not just to ratify trade agreements but also (presumably) the right to choose the instrument(s) through which it delegates trade authority to the executive branch and thus constitutionally regulate trade. The Biden administration is not the first administration to play faster-and-loose on trade agreement authority; the rules of origin in the Trump-era U.S.-Japan trade agreement skirted Congress’ delegated authority. Be that as it may, one facet of the executive branch’s trade policy making is becoming increasingly clearer by the day: as USTR strains to get its story straight on international trade liberalization, the violation of norms, rules and statute—both domestic and international—to jam through its alternative view of the role of trade policy is becoming a commonplace occurrence.

### [Expanded Reading]

- [Indonesian official: U.S. to lead IPEF ministerial in May](#), *Inside U.S. Trade*, March 15, 2023
- [Joint Statement of India-U.S. Commercial Dialogue](#), Office of Public Affairs, U.S. Department of Commerce, March 14, 2023
- [Special Briefing Via Telephone with Gina M.Raimondo, Secretary of Commerce](#), U.S. Department of State, March 9, 2023

- [USTR Released Summaries from U.S.-Taiwan 21st Century Trade Initiative Negotiations](#), Executive Office of the President, March 16, 2023
- [U.S.-Taiwan Initiative on 21st Century Trade Summary of Texts Proposed by the U.S. Side](#), Office of the U.S. Trade Representative, March 2023

## On the Hill



### [Legislative Development]

- The Senate pushed four new bipartisan China bills, including the “Fighting Trade Cheats Acts,” the “Customs-Trade Partnership Against Terrorism Pilot Program Act,” the “American Innovation and Jobs Act,” as well as a currently unnamed bill that would create a ‘China Grand Strategy Commission’.
- The White House backed the bipartisan Senate “Restricting the Emergence of Security Threats that Risk Information and Communications Technology (RESTRICT) Act” and urged lawmakers to quickly send it to the President’s desk for his signing into law.

### [Hearings and Statements]

- Sen. Bob Casey and Sen. Sherrod Brown urged the Biden administration to impose tariffs on solar panel component imports from countries found by the Commerce Department to be circumventing U.S. antidumping and countervailing duties on Chinese imports.
- Rep. Adrian Smith, chairman of the House Ways & Means trade subcommittee, urged his colleagues not to shy away from authorizing Trade Promotion Authority (TPA), which he regards as an important factor that provides the U.S. a stronger strategic position related to China and the ability to compete more effectively.

### [Expanded Reading]

- [Tills, Brown Introduce Bipartisan Legislation to Crack Down on Trade Cheats Like China](#), Office of Senator Thom Tills, March 17, 2023
- [King, Cornyn, Kaine Will Introduce Legislation to Create a China Strategy Commission to Confront Growing Competition](#), Office of Senator Angus King, March 16, 2023
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April 7, 2023

Volume 3, Issue 7

## What's Been Happening

## 1 — USTR Tai Puts Pedal to the Metal on Trade Initiatives — 1

**[In One Sentence]**

- U.S. Trade Representative (USTR) Katherine Tai said that the USTR team is “doing so much work” on WTO reform, including on the negotiation function and the dispute resolution function.
- Talks to finalize the Indo-Pacific Economic Framework (IPEF) are envisaged to conclude as early as this November, with six rounds planned over the remainder of the year starting in Singapore this May.
- The U.S. and Japan signed a “free trade” deal on critical minerals, allowing Japanese manufacturers to access \$7,500 of U.S. electric vehicle tax credits made available in the Inflation Reduction Act.
- Democratic Senators criticized the Biden administration’s critical mineral deal with Japan for lacking congressional consultation and “meaningful” provisions on human rights and environmental concerns.

**[Mark the Essentials]**

- Lawmakers from both chambers are calling on the Biden administration to increase transparency and ensure congressional consultation as the U.S. accelerates on the IPEF negotiations front.
- Acknowledging a “very clear desire for more transparency,” U.S. Trade Representative Katherine Tai said she had released summaries of first-round IPEF text proposals and further committed to release “public summaries of the proposals that we have made.”
- A bipartisan group of House lawmakers are urging the administration to consult Japan and promote “fairness” on an alleged “imbalance in the Japanese video game market and the threat it can pose to the national video game industry,” arguing that it might undermine the U.S.-Japan Digital Trade Agreement.
- U.S. President Joe Biden expressed support for Canada to join IPEF during a meeting with Canadian Prime Minister Justin Trudeau.

**[Keeping an Eye On...]**

- *The lady doth mislead too much, methinks.* USTR Katherine Tai says that her team is “doing so much work” on WTO reform, including on its dispute settlement function. Is this really true? Expectations are low that much or any progress can be made, given the U.S.’ stance on the appellate body’s rulings, procedures and nomination process. To show goodwill and fair play, she could have at least ensured that the recent adverse WTO panel decisions against the U.S. would not be kicked into the long grass by appealing them to the WTO’s defunct appellate body. No such luck or expression of goodwill. It doesn’t help that senior U.S. trade policy ex-officials have privately *sotto voce* gone about telling their counterparts abroad that the U.S. does not intend to hew to

some of its WTO obligations. USTR Katherine Tai says that she realizes the “very clear desire for transparency” on Capitol Hill with regard to the on-going IPEF negotiations. Is that really true too? She trundled out a public summary of the anodyne first negotiating round text proposals when the real sparks are contained in the second-round texts on digital and labor. Surely it should not take more than two-and-a-half weeks after the round to release plain summaries of the tabled proposals. USTR Katherine Tai says that the U.S.-Japan critical minerals deal qualifies as a ‘free trade agreement’. Again, is that really true? Oh, the United States’ *real* free trade agreements are now categorized as “comprehensive free trade agreements” so that the critical minerals agreement with Japan—*boom*—becomes one of “free trade in critical minerals”. Well, one must concede that she has quite the facility as a linguist. What Congress or the U.S.’ international trade partners make of this remains to be seen. WTO rules require, after all, that “substantially all trade” is covered for an agreement to qualify as an FTA, not just a subset of trade or a trade sub-sector. The bigger question is this: whatever Congress or the United States’ international trade partners might make of it, what exactly are they going to do about it? So far, it seems to be to just write long bitter letters paired with angry denunciations on the Hill, and not much more. *No wonder, the lady doth thinketh that she can mislead and get away, methinks.*

### [Expanded Reading]

- [United States to Participate in Third Indo-Pacific Economic Framework \(IPEF\) Negotiating Round in Singapore](#), Office of the U.S. Trade Representative, April 3, 2023
- [Fiji’s DPM and Minister for Trade updates Parliament on the Indo-Pacific Economic Framework](#), Fiji Government, March 29, 2023
- [The US-Japan Economic Partnership Roadmap Emerges](#), Wilson Center, March 29, 2023
- [United States and Japan Sign Critical Minerals Agreement](#), Office of the U.S. Trade Representative, March 28, 2023
- [US, Japan Strike Deal on Supply of Minerals for EV Batteries](#), *Bloomberg*, March 28, 2023 [Paywall]
- [Biden Smuggles Corporate Green Welfare Scheme Through New Critical Minerals Agreement with Japan](#), House Ways & Means Committee, March 28, 2023
- [Neal, Wyden Statement on Biden Administration’s Go-It-Alone Trade Action](#), Office of Rep. Richard Neal (D-MA), March 28, 2023
- [11 members of Congress argue Sony is unfairly hurting Xbox in Japan](#), *Axios*, March 27, 2023
- [Working with the United States to grow our clean economies and create good, middle-class jobs on both sides of our border](#), Office of the Prime Minister of Canada Justin Trudeau, March 24, 2023
- [Sens. Press Trade Rep. Tai On Market Access, Transparency](#), *Law 360*, March 23, 2023 [Paywall]
- [Trade Pillar | Indo-Pacific Economic Framework for Prosperity \(IPEF\)](#), Office of the U.S. Trade Representative, last updated March 21, 2023

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## 2 — China in the EU’s Political and Economic Crosshairs — 2

### [In One Sentence]

- European Commission President Ursula von der Leyen said that the EU must focus on “de-risking, not decoupling” from China, arguing that the latter is “neither viable nor in Europe’s interest.”
- She also warned that “how China continues to interact with Putin’s war [would] be a determining factor for EU-China relations going forward” and a “test” for how much the EU can cooperate with China.

- The EU reached an agreement to create an anti-coercion instrument against economic coercion by third countries, notably China, to any of the EU's member states.
- The U.S. presented the EU with a "first outline" of a "FTA-equivalent" critical mineral deal to address some EU concerns on U.S. electric vehicle tax credits.

### [Mark the Essentials]

- Commission President von der Leyen also noted that while "economic, societal, political and scientific ties" with China should not be cut, the EU's future relationship with China in sensitive high-tech areas as well as on human rights needed to be much more clear-eyed.
- According to a new report from the American Chamber of Commerce to the EU and the U.S. Chamber of Commerce, the U.S.-EU economic relationship proved "remarkably resilient" and strong despite "global economic and strategic disruptions," and U.S.-EU trade in goods and services reached record-high in 2022.
- Swedish Minister for International Cooperation and Foreign Trade Johan Forssell said that the transatlantic talks to resolve EU concerns on the U.S. Inflation Reduction Act are "moving in the right direction" despite remaining "problems."
- During a hearing in front of the Senate Finance Committee, U.S. Trade Representative Katherine Tai faced criticism for pursuing a "go-it-alone" trade policy without sufficient congressional consultation, including on the critical mineral deal with the European Union.

### [Keeping an Eye On...]

- China faces a foreign and economic policy balancing act of the first order. Russia is China's most important *geopolitical* partner in this current era of strife and uncertainty. It is an anchor relationship on the basis of which Beijing geopolitically engages the other major powers. To Beijing's fortune, Moscow has ceased to be a 'balancing power' among the major powers of the type that Beijing had itself been in the 1970s and early-1980s. The European Union, meanwhile, is China's most important *geo-economic* partner in this era of 'extreme [economic] competition' and advanced techno-digital decoupling. Beijing may well prefer that Washington fill that geo-economic partner role, but it takes two hands to clap. The essence of the strategic dilemma that China confronts, therefore, is the balancing of the relationships with its most important *geopolitical* partner (Russia) with that of its most important *geo-economic* partner (the EU); especially at a time when the Russians and Europeans are at loggerheads, Russia viewed as a repellant power, and China placed increasingly in the same doghouse with Russia in European eyes. There are no good answers for Beijing in the short-term. Longer-term though, there are powerful EU-China complementarities anchored in interests (markets and global rules in the area of trade, investment and the environment), not feelings and slogans. This forms the backdrop to the Emmanuel Macron-Ursula von der Leyen 'good cop-bad cop' show this week in Beijing. Beijing will be listening closely as to where the European Commission comes down with regard to redefining Europe's terms of engagement with China, particularly insofar as the 'derisking v. decoupling' debate as well as next steps on the (frozen) Comprehensive Agreement on Investment—if any. Hopefully, Commission President von der Leyen has come with more than just a lecture and a litmus test. As for Macron, he may not be able to remold China's behavior, but he might be able to incentivize Beijing to contemplate reaching beyond its comfort zone and adopting a more independent-minded posture in trying to *co-broker* peace in the Russia-Ukraine conflict—perhaps in tandem in France itself!

### [Expanded Reading]

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- [US and EU Near Critical Minerals Accord to Unlock US Subsidies](#), *Bloomberg*, March 29, 2023 [Paywall]
- [Commission welcomes key progress in triologue on Anti-Coercion Instrument](#), European Commission, March 28, 2023
- [Trade: political agreement on the anti-coercion instrument](#), European Council, March 28, 2023
- [Readout of Deputy Secretary of Commerce Graves' Meeting with Swedish Minister for International Cooperation and Foreign Trade Johan Forssell](#), U.S. Department of Commerce, March 27, 2023
- [U.S. lays out possible critical raw materials agreement with EU](#), Reuters, March 23, 2023 [Paywall]
- [Despite Headwinds, The Transatlantic Economy Set New Records in 2022](#), U.S. Chamber of Commerce, March 21, 2023

### 3 — Pascal Lamy: Truth-Teller — 3

#### [In One Sentence]

- Pascal Lamy, who served two terms as Director-General of the WTO, observed that the “weight of money in the [U.S.] electoral system” as well as rejection “of any international discipline that might not work to [America’s] advantage” are key factors behind the U.S.’ “protectionist turn.”
- In response to Republican criticism of the lack of a robust U.S. policy, USTR Tai asked Republican lawmakers to “meet me on the terms that we need to do things differently.”
- Faced with congressional and industrial concerns, Tai conceded that the U.S. critical mineral deals with Japan and EU will not produce tariff relief and better reciprocal market access for U.S. automakers.
- The Commerce Department announced disbursement rules related to a \$39 billion program to prevent CHIPS Act funds and benefits from flowing to “malign actors.”

#### [Mark the Essentials]

- Pascal Lamy also noted that the U.S. started a structural shift towards trade protectionism as early as 15 years ago and will continue the shift for long. Lamy proposed the building of a coalition “promoting open trade while respecting various collective preferences” but without the U.S., “hoping to create a disadvantage for them that would make them change their position.”
- In the 2023 Economic Report of the President, White House advisors argued that the U.S. and its partners have reached “a turning point in international economic policy” and though it is “desirable to maintain the benefits associated with international trade and investment,” the focus of trade policy needs to “expand beyond reducing barriers.”
- U.S. importers decided to appeal a court ruling that upheld the United States’ Section 301 tariffs on Chinese goods, arguing that the former Trump administration “flouted congressional limits in increasing tariffs seven-fold to cover virtually all trade with China.”

#### [Keeping an Eye On...]

- Pascal Lamy would know a thing or two about trade negotiations and trade protectionism. As the EU’s trade commissioner and later the WTO’s Director-General, he was at the high table during those fateful days in July 2008 in Geneva when USTR Susan Schwab *de facto* killed the Doha Round negotiations by demanding an unrealistic ‘exchange rate’ of guaranteed agricultural market access in developing countries in exchange for moving on material reductions to the U.S.’ bloated agricultural subsidies. Agricultural interests groups can be quite the juggernaut on Capitol Hill, after all. The public narrative of Geneva July 2008 is remembered

differently, of course; it was the Indians' habitual naysaying—this time on the special safeguard mechanism—that effectively killed the Doha Round in Geneva. New Delhi's reactionary trade negotiating stances are (almost) never deserving of sympathy. But truth be told, Geneva 2008 was the moment when it became clear that trade partners would have to concede an arm and a leg in *multilateral* negotiations for the U.S. to sign on the dotted line so as for the agreement to pass muster on Capitol Hill. It is not a coincidence that the U.S.' fascination with large regional plurilateral agreements started post-2008. By the late-2010s, even conceding an arm and a leg was not good enough for a *plurilateral* negotiation to pass muster on Capitol Hill, Obama USTR Michael Froman's brave signature on the TPP dotted line notwithstanding. And today, under the Biden administration, even a conventional *bilateral* trade agreement—one featuring tariff cuts—is hard to come by (whatever IPEF may be, it is not a conventional trade agreement). Having politically self-excluded itself from conventional forms of liberalization, it is the U.S. that is increasingly finding itself on the outside looking-in. As noted earlier, the blunt truth about populism and protectionism today is that it is essentially about protectionism in one major country. The other key actors are all more-or-less committed to the rules-based trading system and conventional forms of liberalization, and the gravitational market pull of the latter far exceeds the pull of the former. The United States' original sin on the trade policy front goes back to the dawn of the post-Cold War world. It was the failure at that time to engage with the notion that imports are just as important as exports in good trade-policy formulation. As bilateral trade deficits racked up over the past three decades, the political reservoir on trade opening was gradually and now completely emptied. There are no good domestic political choices on trade anymore...but USTR Katherine Tai's choices today seem to be particularly ill-conceived ones.

### [Expanded Reading]

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- [Katherine Tai goes viral](#), Politico, March 27, 2023
- [Hearing on the Biden Administration's 2023 Trade Policy Agenda with United States Trade Representative, Ambassador Tai](#), House Ways & Means Committee, March 24, 2023
- [2023 Economic Report of the President](#), The White House, March 2023
- [Commerce Department Outlines Proposed National Security Guardrails for CHIPS for America Incentives Program](#), Department of Commerce, March 21, 2023
- [U.S. Court of International Trade Upholds Section 301 Duties on China](#), Wiley, March 21, 2023

## On the Hill

### [Legislative Development]

- Reps. Dusty Johnson and John Garamendi, co-authors of the Ocean Shipping Reform Act of 2022, proposed a new bill that would establish a “formal process” at the Federal Maritime Commission to receive complaints and investigate Chinese shipping companies and shipping exchanges.
- Senate Finance Committee members James Lankford and Bob Menendez introduced a bill to require that the administration's annual trade agenda reflects and advances American foreign policy and national security objectives.

- Senators introduced a number of bills on U.S. competition with China including on issues concerning grand strategy, a whole-of-government approach, and on the research and development front.

### [Hearings and Statements]

- Republican members of the House Ways & Means Committee criticized the Biden administration for lack of “a clear trade agenda,” arguing that “not pursuing new tariff-reducing enforceable trade agreements breaks a four decade long bipartisan approach to trade policy” and puts “U.S. farmers, workers, and job-creators at a disadvantage against China.”
- Criticizing the Biden administration for “unilateral” movement on negotiating a critical mineral deal with the EU, Senator Finance Committee Chair Ron Wyden said such trade agreements require consultation and consent from Congress.

### [Expanded Reading]

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- [The Ocean Shipping Reform Implementation Act gives the FMC the authority to protect U.S. ports, shippers, and manufacturers from the CCP's influence](#), Congressman Dusty Johnson Press Release, March 28, 2023
- [Hearing on the Biden Administration's 2023 Trade Policy Agenda with United States Trade Representative, Ambassador Tai](#), U.S. House Ways & Means Committee, March 24, 2023
- [S.958 - American Economic Diplomacy Act](#), Congress.gov
- [Lankford, Menendez Want US Trade, National Security Objectives Aligned](#), United States Senator for Oklahoma James Lankford Press Release, March 24, 2023
- [Letter from members of the House Committee on Ways & Means to President Biden](#), Office of Rep. Ron Estes (R-NE), March 23, 2023
- [The President's Fiscal Year 2024 Budget with Treasury Secretary Janet L. Yellen](#), Hearing of the Senate Finance Committee, March 16, 2023
- [S.866 - American Innovation and Jobs Act](#), Congress.gov, March 16, 2023
- [S.863 - A bill to establish a temporary commission to develop a consensus and actionable recommendations on a comprehensive grand strategy with respect to the United States relationship with the People's Republic of China for purposes of ensuring a holistic approach toward the People's Republic of China across all Federal departments and agencies](#), Congress.gov, March 16, 2023
- [S.805 - Fighting Trade Cheats Act of 2023](#), Congress.gov, March 15, 2023
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- [U.S. and Europe Angle for New Deal to Resolve Climate Spat](#), *The New York Times*, March 8, 2023 [Paywall]



April 21, 2023

Volume 3, Issue 8

## What's Been Happening

## 1 — Little Sign of U.S.-China Economic Détente Amid National Security

## Concerns — 1

**[In One Sentence]**

- U.S. Secretary of State Antony Blinken and his EU counterpart Josep Borrell expressed shared concerns over China's position in the Ukraine conflict, highlighting China's "moral duty to contribute to a fair peace" and to not "sid[e] with the aggressor."
- The two also discussed challenges posed by economic coercion, the weaponization of economic dependencies, and non-market practices, "including [those] by the PRC."
- At the World Trade Organization (WTO), Beijing continued to criticize the U.S. for "[d]isruptive and restrictive measures" and "extreme unfairness" such as U.S. export controls and Section 301 tariffs.
- Meanwhile, Washington said the WTO is not the appropriate forum for national security discussions and reiterated "numerous" concerns over the transparency of China's industrial subsidy regime.
- In an important policy speech on U.S.-China economic relations, U.S. Treasury Secretary Janet Yellen sought to restart "healthy economic engagement that benefits both countries."
- Commerce officials are reportedly "lay[ing] groundwork" for a possible visit to China by U.S. Commerce Secretary Gina Raimondo.
- With recent trips to Japan and the Philippines, U.S. Trade Representative Katherine Tai is working to strengthen economic security ties among the three countries, but reiterated that the U.S. had no interest in negotiating a traditional free trade agreement with the Philippines—or, for the matter, any other country.

**[Mark the Essentials]**

- China has accelerated its timeline to build a technologically self-reliant, innovation-driven economy by re-organizing the country's Ministry of Science and Technology and increasing the Party's oversight over the ministry. Analysts and scholars said that the acceleration is partly prompted by U.S. efforts to restrict China's access to critical technologies.
- Secretary Yellen also observed—somewhat questionably—that the national security actions against China are not designed to stifle China's economic and technological modernization or accord a competitive economic advantage to the United States.

- According to a recent OECD report, export control measures on raw materials critical for the green transition increased more than fivefold over the past decade. China was among the countries instituting the largest number of measures and the Biden administration, more lately, has been seeking ways to bring critical mineral supply chains to America and reduce reliance on China.
- Japan said that it will impose new export restrictions on advanced semiconductor manufacturing equipment but stressed that the export controls measures are narrowly intended to prevent military use, in contrast to U.S. restrictions that are more broad-based.
- According to data announced by the U.S. Census Bureau and the U.S. Bureau of Economic Analysis, the trade of U.S. goods with China increased in February by a mere US\$400 million, while the U.S. trade deficit with China increased from US\$3.2 billion to US\$25.2 billion.

### [Keeping an Eye On...]

- Call it a case of the shoe being on the other foot. After two years of sanctions and export control orders intended to suppress China's technological advancement as well as decouple critical supply chains, the Biden administration wants to play nice(r) with Beijing. On April 20, almost exactly a year to the day that she delivered an 'important' speech on "favoring the 'friend-shoring' of supply chains to a large number of trusted countries," Treasury Secretary Janet Yellen stepped on the podium and called this time for a "healthy economic engagement that benefits both [the United States and China]." The "world is big enough for both of us," she declared, and Beijing and Washington needs to "find a way to live together and share in global prosperity." Like her fellow cabinet secretary, Gina Raimondo, she looked forward to traveling to China "at the appropriate time," she observed. Whatever be the cause of the administration's changed tone on China—be it to open Chinese markets to U.S. exports on the lines of the Phase One agreement as Biden seeks reelection; seek a truce during the impending period of U.S. debt ceiling brinkmanship; or just stabilize overall bilateral ties—the problem is that the Chinese do not appear terribly enthusiastic to 'play ball.' In fact, after having patiently absorbed many 'blows to the chin,' Beijing appears to be gradually moving towards its own set of retaliatory countermeasures. Within the past few weeks, China has opened a cybersecurity review of the U.S. chip firm Micron, let it be known that TikTok's algorithm is covered by China's export control laws and hence unprocurable through foreign acquisition, sanctioned U.S. politicians, defense contractors and institutes for facilitating "Taiwan independence" separatist activities, and is in the process of adding high-performance rare earth magnets to its revised Catalog of Technologies Prohibited and Restricted from Export to protect "national security" and the "public interest of society." Surely, there will be more countermeasures in the pipeline. The United States and China, at this time, seem to be operating on incompatible timelines. The Biden administration has had two years to institute its economic security measures (action on an outbound investment screening mechanism and on TikTok is still awaited though) and most of these measures are now at the implementation stage; by contrast, the new Chinese government having taken office last month, is just getting started with its targeted actions. Looking ahead, U.S.-China economic rapprochement will, willy-nilly, move forward in fits-and-starts at best. Which means that Secretary Yellen, perhaps, and Secretary Raimondo, almost-certainly, may have to cool their heels awhile before boarding a flight to Beijing.

### [Expanded Reading]

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- [US not keen on PHL free trade deal](#), *BusinessWorld*, April 19, 2023 [Paywall]
- [Yellen to Deliver Major Speech on US-China Economic Ties](#), *Bloomberg*, April 18, 2023 [Paywall]
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- [Increasing Export Restrictions on Critical Minerals Threaten Energy Transition, OECD Says](#), *The Wall Street Journal*, April 11, 2023 [Paywall]
- [Raw materials critical for the green transition](#), OECD Trade Policy Working Paper, April 11, 2023
- ["Made in America" puts the brakes on electric vehicles Biden hopes to push](#), *Peterson Institute for International Economics*, April 10, 2023
- [Japan and the Netherlands Announce Plans for New Export Controls on Semiconductor Equipment](#), Center for Strategic and International Studies, April 10, 2023
- [Commerce officials heading to China to lay groundwork for possible Raimondo trip later this year, sources say](#), *CNBC*, April 7, 2023
- [Chinese government restructures science, tech agency with U.S. in mind](#), *Inside U.S. Trade*, April 6, 2023
- [U.S. trade deficit widens in February as goods exports fall](#), *Reuters*, April 5, 2023 [Paywall]
- [Secretary Antony J. Blinken And EU High Representative for Foreign Affairs and Security Policy Josep Borrell Remarks to the Press](#), U.S. Department of State, April 4, 2023
- [Even as U.S. Beckons, European Leaders Head to Beijing](#), *The New York Times*, March 29, 2023
- [China Shakes Up Bureaucracy With Eye on Technological Edge](#), *Newsweek*, March 22, 2023 [Paywall]
- [U.S. manufacturers say 'no' to more WTO IP waivers](#), *Politico*, March 20, 2023

## 2 — America's New Trade Story: Many Talks but Limited Delivery — 2

### [In One Sentence]

- USTR Katherine Tai said that the Biden administration is advancing a “new story” on trade, reiterating the administration’s “vision” of a resilient, inclusive and sustainable trade agenda.
- A major element of this approach is that “industrial policy and trade policy must work hand-in-hand” to address supply chain issues spurred by the COVID-19 pandemic and geopolitical tensions.
- USTR Tai also expressed a need for flexibility and regionalization, with “different outcomes...in different contexts,” rather than a ‘one size fits all’ approach.
- Undergirding this trade agenda is a sensitivity to sustainability and workers’ rights.
- USTR Tai also touted the Biden administration’s consistent preference for multilateral approaches to complex trade problems through fora like the Indo-Pacific Economic Framework (IPEF), the Asia-Pacific Economic Partnership (APEC), and the World Trade Organization (WTO).
- On the Indo-Pacific Economic Framework (IPEF), the next negotiating round is set to take place from May 8-15 in Singapore.
- The U.S. Chamber of Commerce expressed its “profound concern” to the White House regarding the Department of Justice and the Federal Trade Commission’s objections to the competition and digital trade texts tabled by the USTR within the IPEF talks.
- The U.S.-EU Trade and Technology Council, meanwhile, has an upcoming meeting scheduled in Sweden from May 30-31.
- The European Union passed the European Chips Act to mobilize 43 billion euro of public and private investments to bolster Europe’s semiconductor industry.

### [Mark the Essentials]

- Commenting on transatlantic economic engagement so far via the Trade and Technology Council (TTC), European Commission Executive Vice President and Trade Commissioner Valdis Dombrovskis said that the

U.S. and EU must “deliver more on the trade side” and that the TTC should “be even bolder in its ambitions.” He pointed to the need for more efforts on digital and sustainable trade and for “clear trade deliverables” coming out of the next TTC meeting.

- Dombrovskis added that a U.S.-EU deal on the U.S. electric vehicle tax credits is a “necessary step” to demonstrate the United States’ “seriousness about removing unnecessary trade obstacles.” According to the Vice-Chair of the American Chamber of Commerce to the European Union (AmCham EU), Kaarli Eichhorn, the U.S. tax credits could be viewed as “distortive” under the EU’s Foreign Subsidy Regulation and lead to “structural or non-structural” countermeasures.
- U.S. businesses have again called for more transparency and deeper stakeholder engagement with regard to the on-going IPEF negotiations. Industry representatives have expressed concerns on the lack of clear benefits to justify U.S. private investment in IPEF member states as well as the Biden administration’s refusal to negotiate market-access provisions despite calls from other IPEF participants.
- *The Wall Street Journal* characterized the Department of Justice and the Federal Trade Commission’s intervention in the IPEF talks as an attempt by the Biden administration to lean on foreign governments to implement its “anti-business” antitrust agenda, given that the administration is falling short on this count on the Hill and in the courts.
- Meanwhile, U.S. officials “applauded” a new biofuel policy by Japan, which expands U.S. biofuel producers’ access to the Japanese market. The U.S. and Japan also concluded a deal on critical minerals in the same week, which the U.S. Department of Treasury cited as an “example” of a “free trade” deal that would allow industries in a U.S. ally state to benefit from U.S. electric vehicle tax credits.
- Under the recently passed European Chips Act, the EU plans to mobilize more than 43 billion Euro of “policy-driven,” public and private investment until 2030 to strengthen Europe’s technological leadership and bolster competitiveness and resilience in the EU’s semiconductor industry.

### [Keeping an Eye On...]

- May 2023 promises to be a busy and critical month for U.S. Trade Representative Katherine Tai. She will host both the APEC and IPEF ministerial meetings in mid-May, followed by a trip to Sweden in late-May to engage her European Union counterparts within the Trade and Technology Council. To lay the groundwork for progress at these meetings, she has been racking up the air miles, visiting Japan and the Philippines this week. Three weeks earlier, she was in South Korea. Her most serious IPEF and TTC-related challenges might be closer to home, though. Within the past week, it has come to light that the Department of Justice (DOJ) and the Federal Trade Commission (FTC) have leant on the Office of the USTR and enjoined it to revise the digital economy and competition enforcement provisions in the United States’ IPEF texts. The specifics are not known. With prior digital economy chapters in trade agreements being a veritable *laissez-faire* giveaway to U.S. corporate interests, presumably the view of the Biden administration is that the time has now come to carve out wider policy space—in terms of worker-centric as well as consumer protections—to regulate dynamic and fast-paced digital markets. Presumably, the DOJ and FTC missive is also the reason why USTR has failed to release even a plain-vanilla summary of IPEF’s second negotiating round in Bali; a full month after its conclusion. Bali is, after all, where USTR had tabled the digital economy text. Critics have castigated the DOJ and FTC intervention as a backdoor attempt to foist the administration’s anti-trust agenda via international agreements, given the roadblocks on this front in the domestic court system and on Capitol Hill. Be that as it may, the DOJ and the FTC’s unseemly intervention has shone a spotlight on a cardinal truth: that

it is difficult to lock down international trade rules in fast-evolving policy areas where underlying domestic regulation is itself in flux. Without regulatory certainty at home, it is hard to negotiate purposefully abroad. That the U.S. is at the back of the queue among the major economic actors in terms of digital economy regulation—be in terms of anti-monopoly protections, privacy and data protections, fintech-related financial stability risk management, review of liability protection for intermediary service providers, development of rules for artificial intelligence (AI) applications or, for the matter, requiring the transparency of the structure, use, and impacts of algorithmic systems—is an added and untimely complication for the USTR. Stay prepared for further twists and turns in the digital economy and competition policy negotiations within IPEF’s trade pillar.

### [Expanded Reading]

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- [European Chips Act](#), European Commission, April 18, 2023
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- [Factbox: Economic reliance on China that EU wants to 'rebalance'](#), *Reuters*, April 4, 2023 [Paywall]
- [Sweden to host Transatlantic Ministerial Meeting in May](#), Government Offices of Sweden, April 4, 2023
- [United States to Participate in Third Indo-Pacific Economic Framework \(IPEF\) Negotiating Round in Singapore](#), Office of the U.S. Trade Representative, April 3, 2023
- [U.S. grants free trade status for Japan under new EV tax credit rules](#), *Kyodo News*, April 1, 2023 [Paywall]
- [Japan's New Biofuels Policy Allows for Increased Exports of U.S. Ethanol](#), Office of the U.S. Trade Representative, March 31, 2023

## On the Hill

### [Legislative Development]

- A bipartisan, bicameral group of lawmakers introduced a congressional resolution calling for U.S. leadership in the rulemaking of digital trade and the global digital economy.
- U.S. lawmakers introduced several bills to develop a “comprehensive sanctions strategy” “in response to any coercive action” by China against Taiwan.

- A number of bills were also introduced recently to address concerns on China's purchase of U.S. real estate as well as U.S. portfolio investment in China and in Chinese companies. Other proposed bills urge the Biden administration to incorporate national security concerns in its annual trade agenda, strip China of its PNTR (permanent normal trade relations) status, and develop a whole-of-government approach to counter China.

### [Hearings and Statements]

- At a House's Ways and Means Committee hearing, U.S. legislators discussed concerns over China's "aggressive trade and investment agenda," covering issues such as economic coercion and the need to reform the *de minimis* "loophole" in U.S. import rules.
- House Ways & Means Committee's trade subcommittee Chair Adrian Smith accused the Biden administration of "blatant executive overreach" in planning to treat Japan and the European Union as "free trade partners" for the purpose of implementing the electric vehicle tax credits of the Inflation Reduction Act. The view was shared by subcommittee ranking member Earl Blumenauer, who said that the administration's proposed rules on the tax credits "contradicts congressional intent."
- House Ways & Means Committee member Carol Miller urged the Biden administration to "start prioritizing robust and meaningful trade and investment actions" in Central Asia to counter the influence of Russia and China.

### [Expanded Reading]

- [Hearing on Countering China's Trade and Investment Agenda: Opportunities for American Leadership](#), hearing in front of the House Ways and Means Committee, April 18, 2023
- [How we can counter the influence of Russia and China in Central Asia](#), *The Hill*, by Rep. Carol D. Miller (R-West Virginia), April 5, 2023
- [Smith: This is Unacceptable & Unconstitutional](#), Office of Rep. Adrian Smith (R-Nebraska), March 31, 2023
- [LaHood, DelBene, Smith, Bera Introduce Resolution to Promote the U.S. Digital Economy and Digital Trade](#), Office of Rep. Darin LaHood (R-Illinois), March 31, 2023
- [H.Res.270](#), Congress.gov
- [Cotton: No Chinese Citizen, Company Should Own American Land](#), Office of Senator Tom Cotton (R-Arkansas), March 30, 2023
- [S.1136 - Not One More Inch or Acre Act](#), Congress.gov
- [Sen. Rick Scott Introduces Bill Package to Combat Communist Chinese Influence in Financial Sector](#), Office of Senator Rick Scott (R-Florida), March 16, 2023
- [S.855 - TICKER Act](#), Congress.gov
- [King, Cornyn, Kaine Will Introduce Legislation to Create a China Strategy Commission to Confront Growing Competition](#), Office of Senator Angus King (I-Maine), March 16, 2023

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## What's Been Happening

**1 — Hope for U.S.-China Trade Persists Amid Apprehension Over Vulnerabilities — 1****[In One Sentence]**

- China issued a series of measures to stabilize trade volume, “optimize” foreign trade structures, and expand imports and exports of key products.
- A top Chinese trade official reiterated that China is willing and able to join the CPTPP.
- U.S. Treasury Secretary Janet Yellen said that the Biden administration “seek[s] a healthy economic relationship with China” but will not compromise on national security, human rights or China’s “unfair economic practices.”
- This national security focus was manifested recently with the announcement of a 90-day “sprint” review of Chinese influence in U.S. supply chains and firms by the Department of Homeland Security.
- Nine Republican Senators called on the Biden administration to pursue further measures against Chinese cloud-computing service providers such as sanctions, export restrictions and investment bans.
- National Security Advisor Jake Sullivan said the administration’s pursuit of “modern trade agreements” with “like-minded partners” is about “a different set of fundamental priorities” such as supply chain resilience and sustainability, rather than “simply bringing down tariffs.”

**[Mark the Essentials]**

- According to a recent survey conducted by the American Chamber of Commerce, companies have become more optimistic about the short-term and long-term prospects of China’s economy. Meanwhile, rising tensions between the U.S. and China remained the top challenge and concern for businesses, especially those in the services, research, and innovation sectors.
- In reviewing public comments to the USTR regarding the Section 301 tariffs on Chinese goods, researchers at the Council on Foreign Relations found that an “overwhelming majority” of comments seek an end to the tariffs. Businesses said that the tariffs drove up consumer costs, decreased wages and employment, and reduced investment in domestic research and development.

- At the same time, an analysis by the U.S.-China Economic and Security Review Commission argued that Chinese “fast fashion” platforms are “exploiting” loopholes in U.S. tariffs and customs procedures and “disproportionately” benefiting from U.S. de minimis import exemptions.
- At a hearing of the House Ways and Means Committee’s subcommittee on trade, former officials and lawmakers debated the possibility of revoking China’s permanent normal trade relations status, or subject the status to annual congressional review.

### [Keeping an Eye On...]

- Two weeks ago, it was Treasury Secretary Janet Yellen’s turn to speak. At the School of Advanced International Studies (SAIS), host to one of the oldest and most extensive China studies programs in the country, Secretary Yellen laid out what was by most accounts one of the most constructive and conciliatory China speeches of the Biden administration so far. Last week, it was National Security Advisor Jake Sullivan’s turn at the Brookings Institution. He was far less charitable in his remarks. Beijing, he noted, had become neither “more responsible or cooperative, and ignoring economic dependencies that had built up over decades of liberalization had become really perilous.” NSA Sullivan’s prepared remarks were a notch down in intensity, though, compared to his September 2022 remarks where he had listed a “family of technologies” (computing-related technologies; biotechnologies and biomanufacturing; clean energy technologies) that were to be denied to Beijing. His remarks rather were a panoramic overview of the administration’s “foreign [and economic] policy for the middle class”—an eclectic mix of Donald Trump and Peter Navarro-style economic populism, Janet Yellen-popularized supply chain resilience-related “friendshoring”, and Katherine Tai-proposed worker-centered international economic partnerships (contrasted with traditional trade deals). The remarks were primarily directed at the U.S.’ favored set of ‘like-minded’ friendshoring partners in the developed and developing world; it was not meant so much as an outreach to China. While the remarks were unremarkable for the most part, they invite two larger questions. First, why did Mr. Sullivan and not Ms. Brainard deliver the remarks? She is, after all, the head of the Biden National Economic Council, has been a past undersecretary for international affairs at the Treasury Department, and this was a speech related to the administration’s international economic agenda; the topic was more ‘up her alley’ than his. Then second, and more importantly, what was NSA Sullivan trying to signal or accomplish? His remarks were less hawkish on China than previous ones but were clearly some distance removed in tone and approach from Secretary Yellen’s speech a week earlier. It is also known that in the time since his hawkish “family of technologies” speech of September 2022, he has been at the losing end of the internal White House debate on a China-related outbound investment screening mechanism. The Treasury Department’s view of a slimmed-down instrument appears to have carried the day, and an Executive Order is anticipated in terms of days, not weeks. Perhaps Mr. Sullivan wanted to dial down some of the pro-engagement optics of Secretary Yellen’s remarks? Or perhaps complement them by situating Secretary Yellen’s remarks on China within the administration’s larger economic policy approach—especially at a time when restrictive executive and legislative branch actions on outbound investment screening, social media applications (TikTok), and even perhaps trade policy are on the anvil? Time will tell, given that no new ground was broken as such in Sullivan’s remarks.

### [Expanded Reading]

- [Remarks by National Security Advisor Jake Sullivan on Renewing American Economic Leadership at the Brookings Institution](#), The White House, April 27, 2023
- [White House's Sullivan: US not looking to decouple from China economy](#), Reuters, April 27, 2023



- [US official says Chinese cloud companies like Huawei could pose threat](#), Reuters, April 26, 2023
- [Senate Republicans call on Biden administration to clamp down on cloud companies with ties to China](#), CNN Business, April 25, 2023
- [China's CPTPP trade aspirations still hinge on bloc's support as external pressures mount](#), South China Morning Post, April 24, 2023 [Paywall]
- [90-day People's Republic of China Threats Sprint](#), U.S. Department of Homeland Security, April 20, 2023
- [Remarks by Secretary of the Treasury Janet L. Yellen on the U.S. - China Economic Relationship at Johns Hopkins School of Advanced International Studies](#), U.S. Department of the Treasury, April 20, 2023
- [Yellen Calls for 'Constructive' China Relationship](#), The New York Times, April 20, 2023 [Paywall]
- [Katherine Tai, United States Trade Representative](#), The Foreign Correspondents' Club of Japan, April 20, 2023
- [The Cost of Trump's Trade War with China Is Still Adding Up](#), Council on Foreign Relations, April 18, 2023

## 2 — U.S. Trade Partners Frustrated by Differential Treatment on Subsidies — 2

### [In One Sentence]

- A new negotiating round for the Indo-Pacific Economic Framework (IPEF) will be held in Singapore from May 8-15.
- The U.S.-EU Trade and Technology Council is also scheduled to meet in Sweden from May 30-31.
- A preliminary stakeholder meeting was held on May 4 to gather inputs on potential TTC digital trade initiatives (e.g., the use of digital technologies for Transatlantic trade facilitation).
- Viewing the U.S.-Japan critical mineral deal as “a good basis,” the EU expects to be treated no worse than Japan in pursuing a similar deal to gain access to U.S. electric vehicle tax credits.
- South Korean President Yoon Suk-yeol's admiration for the U.S. was fully on display during his state visit to Washington on April 26, but he left with a soft commitment from the White House to provide “special support and considerations” to Korean firms seeking to benefit from Inflation Reduction Act and CHIPS Act tax incentives.
- Some commentators, however, have decried the lack of detail and timeframe surrounding this supposed U.S. support for Korean manufacturers.

### [Mark the Essentials]

- After the U.S. Department of Justice and the Federal Trade Commission announced plans to “assist with” the implementation of the European Union's Digital Markets Act, the U.S. Chamber of Commerce expressed “profound concerns” that U.S. agencies might help with what the Chamber called a “protectionist” policy to target select U.S. firms. Instead, the Chamber emphasized that the Biden administration is supporting efforts to “promote the EU's ‘tech sovereignty’ agenda.”
- A group of major U.S. trade associations are calling on the Group of 7 (G7) to take actions and strengthen “the ability to transfer data across transnational digital networks,” noting “unsustainable” increase in cross-border data restrictions. The G7 trade ministers have previously expressed “united” opposition to “digital protectionism and digital authoritarianism.”
- As the U.S. and EU continue their talks on transatlantic steel and aluminum trade, the EU is reportedly asking for a U.S. commitment to “permanently” remove all Section 232 tariffs and “any additional duties beyond MFN/BOUND tariffs” on EU steel and aluminum.

## [Keeping an Eye On...]

- The vast amount of subsidy money available via the CHIPS Act and the Inflation Reduction Act (IRA) has divided beneficiary countries into two groups. There are those that are more or less comfortable or have made peace with the legislation and are ready to take advantage of the sums on offer even if it is to the relative discomfort of their China operations. Japan and Taiwan fall in this category. And then there are those that are uncomfortable with the legislation—they are not consistent with WTO rules and have touched off a subsidy race, uncomfortable with its implications related to their companies' exposure to the China market, but are unable to look away given the vast sums on the table. The European Union countries and South Korea fall into this category. The EU is unhappy that it isn't being offered the same critical minerals 'free trade partner' deal as offered to the Japanese. Lack of this critical minerals-linked battery sourcing requirement could make EU cars unable to cash in on US\$3,750 worth of tax credits. The EU did win a reprieve last December though when the Biden administration ensured that EU-assembled electric vehicles leased to private customers could be considered as commercial vehicles under the IRA's EV subsidy purview. South Korea is unhappy that the CHIPS Act contains intrusive profit and loss information sharing requests and large upside gains to be surrendered back to the government. The tall guardrails that prevent CHIPS subsidy beneficiaries from materially expanding their footprint in the China market is a source of concern too, given that huge revenues earned in that market are plowed back into R&D chip-development at home. That no existing South Korean EV model qualifies for IRA money in 2023 (plenty of American brands do) despite the windfall investment in new auto-factory and battery capacity in the U.S. by South Korean players, is a source of gripe too. That said, Seoul won a reprieve in late March when the Treasury Department interpreted certain battery components (cathode active materials) as a critical mineral, and not as a battery component. Had it been considered a battery component, it would have had to be sourced from North America, and not locally in Korea; as a critical material, now, and with Korea enjoying a real free trade agreement with the U.S., it can be incorporated into a battery locally and yet be eligible for US\$3,750 of the IRA's EV tax credit. Besides, Seoul has also been able to grandfather its semiconductor foundries in China within the CHIPS Acts' guardrails, but a certification dance on an annual basis looms. Besides, the expansion capacity of these foundries is severely constrained. Two implications flow from this fiendishly complicated state of play on the various industrial subsidies programs. First, tracking the flow of money based on the various mandates is an auditor's dream (or maybe nightmare). And second, however unhappy foreign parties may be with the broad contours of the CHIPS Act and the IRA for a variety of reasons, there is enough money on the table for them to keep their attention firmly glued to that table. NSA Sullivan was not wrong in noting in his Brookings address last week that, at the end of the day, the vast industrial subsidies will help, not hurt, the U.S. relationships with allies and partners. Call it a more-or-less happy enough camp of the 'like minded.'

## [Expanded Reading]

- [Joint EU-U.S. Stakeholder Event - Transatlantic Cooperation on Digital Initiatives to Enhance Trade](#), European Commission, May 4, 2023
- [Top Biden Aide Says U.S. Subsidies Will Help, Not Hurt, Relationships With Allies](#), *The Wall Street Journal*, April 27, 2023 [Paywall]
- [Summit fails to bear fruitful results for Korean chipmakers: experts](#), *The Korea Times*, April 27, 2023 [Paywall]
- [South Korea ponders the high cost of being America's friend](#), *The Financial Times*, April 27, 2023 [Paywall]

- [Biden Sparks a \\$2 Trillion Arms Race Over Chips, Green Subsidies](#), *Bloomberg*, April 27, 2023 [Paywall]
- [Remarks by President Biden and President Yoon Suk Yeol of the Republic of Korea in Joint Press Conference](#), The White House, April 26, 2023
- [Europe approves its \\$47 billion answer to Biden's CHIPS Act — here's everything that's in it](#), *CNBC*, April 19, 2023
- [No deal yet on EU critical minerals](#), *Politico*, April 17, 2023
- [EU's Dombrovskis sees some progress on steel, battery minerals talks with U.S.](#), *Reuters*, April 14, 2023
- [Trump's tariff time bomb threatens to blow up transatlantic trade](#), *Politico*, April 5, 2023
- [Sweden to host Transatlantic Ministerial Meeting in May](#), Government Offices of Sweden, April 4, 2023
- [United States to Participate in Third Indo-Pacific Economic Framework \(IPEF\) Negotiating Round in Singapore](#), Office of the U.S. Trade Representative, April 3, 2023
- [Yoon asks U.S. Trade Representative to address S. Korean firms' concerns over IRA, Chips Act](#), *Yonhap News Agency*, March 30, 2023
- [G7 Trade Ministers' Digital Trade Principles](#), Government of the United Kingdom, October 22, 2021

## On the Hill



### [Legislative Development]

- The House Ways and Means Committee voted to approve a resolution that would revoke the Biden administration's decision to suspend solar tariffs from Southeast Asian manufacturers that some argue are helping Chinese companies circumvent U.S. trade tariffs.
- Only one Democratic lawmaker on the Committee voted to support the solar resolution. Rep. Bill Pascrell, a sponsor of the bill who missed the voting, said he would have voted for the bill if he had been present.
- A bipartisan group of Senators proposed a bill to “promote diplomacy and combat Communist China’s increased aggression in the Pacific” by sending a special U.S. envoy to the Pacific Island Forum.

### [Hearings and Statements]

- Arguing for a “constructive rebalancing” of the U.S.-China economic relationship, Rep. Ro Khanna emphasized the need for “economic patriotism” and investment to increase U.S. manufacturing capability in aluminum, steel, microelectronics, automobile and green technology, among others.
- The White House said it “strongly opposes” the solar resolution and will veto the bill if it passes both chambers of Congress.
- In a letter to USTR Tai and Secretary of Commerce Raimondo, seven progressive Democratic lawmakers expressed “concerns” with digital trade negotiations at IPEF, calling on Biden to ensure that the digital trade rules complement efforts to promote competition, especially when it comes to regulation of Big Tech platforms.
- All first-term Democratic House lawmakers called on the Biden administration to ensure that U.S. Trade policy, including IPEF and its digital trade provisions, are worker-centered. The lawmakers also urged the administration to “work with us and our constituents in a transparent and inclusive manner” on trade policy and trade deal negotiations.

- House Ways & Means Committee Chair Jason Smith questioned Ford whether “taxpayer dollars,” especially electric vehicle tax credits under the Inflation Reduction Act, may be directed to a Chinese company through a partnership with Ford.

**[Expanded Reading]**

- [Khanna Delivers Remarks on Rebalancing China with a New Economic Patriotism](#), Office of Rep. Ro Khanna (D-California), April 24, 2023
- [Exclusive: Biden would veto legislation to block solar tariff waivers](#), *Reuters*, April 24, 2023
- [Schakowsky, Lawmakers Reiterate Concern over Big Tech Pushing Digital Trade Rules That Conflict with Biden Competition Agenda and Pending Legislation](#), Office of Rep. Jan Schakowsky (D-Illinois), April 24, 2023
- [H. J. Res 39, Disapproving the rule submitted by the Department of Commerce relating to "Procedures Covering Suspension of Liquidation, Duties and Estimated Duties in Accord With Presidential Proclamation 10414"](#), Congress.gov
- [Kennedy introduces bipartisan U.S. and Pacific Islands Forum Partnership Act to counter communist aggression, strengthen diplomatic ties in Pacific](#), Office of Senator John Kennedy (R-Louisiana), April 19, 2023
- [S.1220 - U.S. and Pacific Islands Forum Partnership Act](#), Congress.gov
- [Automaker's Troubling Deal with Chinese Company Raises Questions About Democrats' Electric Vehicle Tax Credits](#), House Ways and Means Committee, April 17, 2023

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## What's Been Happening

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

#### [In One Sentence]

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

#### [Mark the Essentials]

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

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

### [Keeping an Eye On...]

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

### [Expanded Reading]

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

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

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

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

### [In One Sentence]

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

### [Mark the Essentials]

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

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

### [Keeping an Eye On...]

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

### [Expanded Reading]

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



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

## On the Hill

### [Legislative Developments]

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

### [Hearings and Statements]

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

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

**[Expanded Reading]**

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

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## What's Been Happening

**1 — IPEF: Modest Progress Made in Detroit, Many Questions Remain— 1****[In One Sentence]**

- On May 27, 2023, the United States hosted a Indo-Pacific Economic Framework (IPEF) trade ministerial in Detroit, Michigan on the back of the Asia-Pacific Economic Cooperation (APEC) meeting.
- The 14 IPEF members announced the “substantial conclusion” of a supply chain agreement, which, according to U.S. Commerce Secretary Gina Raimondo, recognized “for the first time” that “workers and labor rights are a core component of what it means to have global resilient supply chains.”
- On labor rights, the United States is reportedly negotiating to create a “facility-specific” rapid-response mechanism to address labor rights inconsistencies.
- Many major U.S. business and agriculture groups continue to criticize IPEF for “sidelining” market-access and tariff reduction provisions that “could deliver meaningful benefits for American exporters.”
- Some “interested IPEF partners” are introducing a regional hydrogen initiative to “encourage widespread deployment of low-carbon and renewable hydrogen.”

**[Mark the Essentials]**

- A coalition of ‘non-dominant’ digital businesses—including Yelp, Proton and the Coalition for App Fairness—are urging U.S. officials to prevent the proposed Indo-Pacific Economic Framework (IPEF) agreement from empowering Big Tech platforms to “avoid accountability for monopolistic and discriminatory behavior.” Echoing arguments by Senator Elizabeth Warren’s office that certain Big Tech companies are getting special access to U.S. trade negotiations, the coalition said a few Big Tech entities are “dominating” IPEF negotiations, excluding the voices of small and medium tech companies, and targeting pro-competition policies in foreign markets by “branding” them as protectionist.
- U.S. Trade Representative Katherine Tai has again named labor concerns as a top and previously overlooked priority of trade policy, criticizing, for example, Asia-Pacific Economic Cooperation’s “oversight” for not having an “accompanying worker forum.” In response to Tai, New Zealand Trade Minister Damien O’Connor argued that trade should be “the solution, not the problem” and cautioned against the “trade or workers’ right” mindset. Meanwhile, World Trade Organization (WTO) Director-General Ngozi Okonjo-Iweala said it

is “surprising” that “people perceive” that the WTO has walked away from labor rights concerns, noting that employment and better living standards have been a focal point of WTO’s mission since its very foundation.

- IPEF negotiators are reportedly working towards a multilateral coordination framework to identify and address potential supply chain crises across all sectors. As trade in critical minerals with the United States is considered an important issue for some IPEF members such as Indonesia and the Philippines, a few among the gathered member states have argued that IPEF’s supply chain provisions could be brought “from zero to 100” by including critical minerals within the framework.

### **[Keeping an Eye On...]**

- Like the hard-working mermaids who churn out colorful shells from their undersea factories, USTR Katherine Tai and Commerce Secretary Gina Raimondo produced a colorful shell too at the recent Indo-Pacific Economic Framework (IPEF) ministerial in Detroit. A colorful shell of an agreement, that is—a supply chain agreement, in this case. Don’t call it a formal agreement yet though. What the IPEF parties accomplished in Detroit is the “substantial conclusion of negotiations” towards a supply chain agreement, i.e., parties basically agreed to cooperate in the area of supply chains. Finalizing the finer details of the agreement is a matter that has been left to another day. Commerce Department publicists were quick to dub the agreement a landmark one, presumably because it extends rulemaking to supply chains—and on workers’ rights therein—in a multilateral arrangement for the first time. The agreement is expected to feature a number of bodies: an IPEF Supply Chain Council, an IPEF Supply Chain Crisis Response Network, and an IPEF Labor Rights Advisory Board, whose stated purpose is to foster coordination to identify potential regional supply chain challenges before they become widespread disruptions. The agreement’s unstated purpose is to reduce the dependence on China for critical goods as well as build out supply chains that do not rely on China. Chinese value added will presumably be barred by claiming (baselessly) that it is a product of forced labor. It is most unlikely that the agreement will achieve its latter purpose, given China’s central role in the region’s production-sharing networks across a wide range of goods as well as the size of its final consumption market. Rather, the agreement is likely to end up spawning a process-oriented talkshop that dwells on marginal issues like region-wide customs facilitation and cargo risk assessment practices, etc. A harbinger of the proposed agreement’s fecklessness is that it does not seem purpose-fit for building out even a critical minerals and battery supply chain (one of Washington’s hotter preoccupations these days), given that Beijing’s fingerprints are already too enmeshed regionally within these chains. And Washington would rather hammer out critical minerals or battery component supply chain deals individually with just a handful of regional countries. That which relates to sourcing requirements for critical minerals will be applicable in spades to other regionally produced goods. Don’t tell that to the industrious mermaids at USTR and Commerce though as they busy themselves churning out evermore emptier but colorful shells—called ‘pillars’ in the IPEF jargon—which collectively is to give form to their novel vision of a non-traditional type of regional trade agreement.

### **[Expanded Reading]**

- [Biden Administration Announces Indo-Pacific Deal, Clashing With Industry Groups](#), *The New York Times*, May 27, 2023
- [IPEF Joint Statement for the Trade Pillar, Clean Economy Pillar, and Fair Economy Pillar](#), Office of the United States Trade Representative, May 27, 2023
- [Press Statement on the Substantial Conclusion of IPEF Supply Chain Agreement Negotiations](#), U.S. Department of Commerce, May 27, 2023
- [Press Statement for the Trade Pillar, Clean Economy Pillar, and Fair Economy Pillar](#), U.S. Department of

Commerce, May 27, 2023

- [Business and Agriculture Community Letter to the Administration on the Indo-Pacific Economic Framework \(IPEF\)](#), U.S. Chamber of Commerce, May 26, 2023
- [IPEF Coalition Letter - May 2023](#), available on Proton Drive, May 16, 2023

## 2 — Slow Crawl Ahead Towards a “Thaw” in U.S.-China Trade Relations— 2

### [In One Sentence]

- U.S. Secretary of Commerce Gina Raimondo and China’s Minister of Commerce Wang Wentao held a “candid” and “constructive” conversation about U.S.-China economic, trade and investment relations.
- U.S. Trade Representative Katherine Tai also met with Wang on the margins of the Asia-Pacific Economic Cooperation (APEC) ministerial meeting.
- After China banned key infrastructure operators from buying Micron products for “serious network security risks,” U.S. officials and lawmakers criticized the move as “economic coercion.”
- Responding to a Group of Seven (G7) statement criticizing China’s “economic coercion,” China said that the United States’ “unilateral sanctions” and “acts of ‘decoupling’” made it “the real coercer,” urging the G7 not to become an “accomplice.”
- The U.S. and Taiwan have concluded negotiations on their U.S.-Taiwan Initiative on 21st Century Trade, covering issues such as trade facilitation, service regulation, and small and medium-sized enterprises.

### [Mark the Essentials]

- According to official statements, U.S. Secretary of Commerce Gina Raimondo “raised concerns” about China’s “recent spate of...actions taken against U.S. companies,” while China’s Minister of Commerce Wang Wentao “expressed pressing concerns” on U.S. “semiconductor policy, export controls and foreign investment review” policy towards China.
- As part of the reform discussions to get the World Trade Organization (WTO) out of its current impasse, China has suggested that the WTO Secretariat should take the lead in identifying easily implementable reform proposals and have the discretion to “take steps on the improvements” if they are within the Secretariat’s mandate and capabilities. This would be a step further from the U.S. position, which has largely focused on procedural changes to increase WTO efficiency and has repeatedly voiced concerns about the “overreach” of other WTO branches (e.g., the WTO’s dispute settlement system).
- After the U.S. said that it had concluded negotiations on the U.S.-Taiwan Initiative on 21st Century Trade, Taipei said that an agreement under the initiative would be “the most comprehensive trade agreement signed between Taiwan and the United States since 1979” and would function as a “building block” for a “Taiwan-U.S. free trade agreement.” China has “deplored” and “strongly opposed” the U.S.-Taiwan Initiative as a “grave violation” of the One China principle and U.S. commitments to maintain only unofficial relations with Taiwan, holding that the negotiating or signing of an agreement “with implications of sovereignty” sends “wrong messages to separatist forces seeking ‘Taiwan independence.’”
- U.S. President Joe Biden vetoed a bill to maintain a 2-year tariff suspension on solar panels from Southeast Asian countries, whose companies are allegedly helping Chinese manufacturers circumvent U.S. antidumping duties against China. According to Biden, the United States has been “reliant” on Chinese solar panels “for too long,” and a 24-month “bridge” would support the American solar industry as the Biden administration’s laws and executive actions eventually improve solar panel manufacturing capabilities in the U.S.
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- As the Office of the U.S. Trade Representative (USTR) continued its statutory review of Section 301 tariffs on Chinese goods, USTR recently decided to again extend the exclusion of Section 301 tariffs on dozens of COVID-related medical products from China, stating that the extension is “not likely to adversely harm [relevant] domestic manufacturing.”

### [Keeping an Eye On...]

- Almost 900 days since the Biden administration was sworn into office and more than 600 days after she laid out a “new approach to the U.S.-China trade relationship”, USTR Katherine Tai finally met in-person with her Chinese counterpart Wang Wentao on the sidelines of the Asia-Pacific Economic Cooperation (APEC) meeting in Detroit. In her “new approach” on China remarks of October 2021- probably better described as “no approach” on China–USTR Tai had made two overarching points. First, that trade and tariff policy was a component of the administration’s broader worker-focused agenda, and trade policy will be taking a relative backseat until the administration’s infrastructure-building, competitiveness, and worker training agenda had been put into motion. For the most part, that infrastructure and worker-focused agenda has been put into motion. Second, that the U.S. was not seeking to decouple from China but would rather insist on reframing the terms of its ‘recoupling’. Those terms of ‘recoupling’ have been awfully slow to arrive. Be it a successor to the Phase One trade agreement–let alone negotiate a Phase Two ‘structural’ issues deal, readjustment of the Section 301 tariffs, or even drawing up the architecture of USTR’s engagement with its Chinese counterparts, there has been practically no movement forward. In the interim, a WTO dispute settlement panel has found the Section 301 tariffs to be in violation of international trade law. Indeed, truth be told, the terms of that ‘recoupling’ on the trade policy front may never fully arrive in earnest during this Biden term. At this time, a second phase of review of the Section 301 tariffs is glacially underway, with almost 1,500 stakeholders having submitted comments by the January 2023 deadline (300 of those comments were either exact duplicates or entirely empty!). USTR is presumably sifting through the comments at leisure, and it is highly unlikely that there will be any significant readjustment of these China tariffs (some tariff exclusions could be widened though) at this late stage in the administration’s term of office. Which, in turn, means that while USTR will try to sort out minor trade irritants with the Chinese side in the time ahead, not much more can be expected on this U.S-China trade policy front until a new president arrives in 2025 or Mr. Biden is reelected. There will no doubt be ‘candid and constructive’ discussions between the two sides during the interim, but little to show by way of actual delivery.

### [Expanded Reading]

- [Chinese Commerce Minister Meets with US Commerce Secretary](#), Embassy of the People’s Republic of China in the United States of America, May 28, 2023
- [US ‘Won’t Tolerate’ China’s Micron Chips Ban, Raimondo Says](#), *Bloomberg*, May 27, 2023
- [U.S., China’s top commerce officials meet to discuss trade concerns](#), *CNBC*, May 26, 2023
- [Readout of Ambassador Katherine Tai’s Meeting with Minister of Commerce of the People’s Republic of China Wang Wentao](#), Office of the United States Trade Representative, May 26, 2023
- [Readout of Secretary Raimondo’s Meeting with Ministry of Commerce Minister Wang Wentao](#), U.S. Department of Commerce, May 25, 2023
- [U.S., Chinese commerce chiefs raise complaints on trade, investment, export policies](#), *Reuters*, May 25, 2023
- [G7 Hiroshima Leaders’ Communiqué](#), The White House, May 20, 2023
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- [Foreign Ministry Spokesperson's Remarks on G7 Hiroshima Summit's Hying up of China-related Issues](#), Ministry of Foreign Affairs of the People's Republic of China, May 20, 2023
- [Foreign Ministry Spokesperson Wang Wenbin's Regular Press Conference on May 19, 2023](#), Ministry of Foreign Affairs of the People's Republic of China, May 19, 2023
- [USTR Announcement Regarding U.S.-Taiwan Trade Initiative](#), Office of the United States Trade Representative, May 18, 2023

## On the Hill



### [Hearings and Statements]

- At a hearing on the Biden administration's fiscal year 2024 budget request, several Senators led by Senate Appropriations Committee Chair Patty Murray argued that delays in passing appropriations bills would weaken the United States and "make China stronger."
- Addressing House Republicans' proposed solution to the debt ceiling crisis, U.S. Secretary of Commerce Gina Raimondo said that their tight budget plan will force Commerce to lay off "hundreds" of trade-related personnel and "massively" slow down trade enforcement works.
- U.S. Senator Sherrod Brown applauded the Treasury Department for "prioritizing American manufacturing" after the department decided to award solar companies with extra tax credit subsidies if they use steel, iron and other manufactured goods that are made in the U.S.
- As policy recommendations to "help end the Uyghur genocide" and "enhance Taiwan's deterrence," the House Committee on China suggested that Congress pass laws to lower the *de minimis* threshold of tariff exemptions on low-value shipments, sanction Chinese technology companies, and limit U.S.-originated investment to China's critical technology sectors.
- Criticizing China's decision to ban key infrastructure operators from buying Micron products due to "serious network security risks," Senate Majority Leader Chuck Schumer said the move was "a troubling use of economic coercion against the U.S."

### [Expanded Reading]

- [US House China panel recommends Congress take action over Taiwan, Uyghurs](#), *Reuters*, May 24, 2023
- [Select Committee on the CCP Overwhelmingly Adopts Proposals on Uyghur Genocide & Taiwan](#), U.S. House Select Committee on the Chinese Communist Party, May 24, 2023
- [Micron chip ban in China to be addressed by Biden and top US Senator](#), *Reuters*, May 23, 2023
- [A Review of the President's Fiscal Year 24 Budget Request: Investing in US Security, Competitiveness, and the Path Ahead for the U.S.-China Relationship](#), hearing in front of the U.S. Senate Committee on Appropriations, May 16, 2023
- [Raimondo: GOP budget plan would curtail trade enforcement efforts](#), *Inside U.S. Trade*, May 16, 2023  
[Paywall]
- [Following Brown's Urging, New Treasury Rules Prioritize American Manufacturing](#), Office of U.S. Senator Sherrod Brown (D-Ohio), May 12, 2023

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## What's Been Happening

### 1 — The White House's Trade Ambitions and Its Critics— 1

#### [In One Sentence]

- U.S. Trade Representative Katherine Tai defended the Biden administration's economic policies by listing out new challenges to be tackled and highlighting the need to reshape trade policies to bolster U.S. manufacturing and exports.
- Facing criticism from high-ranking members of Congress, Tai and Secretary of Commerce Gina Raimondo insisted that the Biden administration has been in consistent engagement with Congress during its negotiation of the Indo-Pacific Economic Framework for Prosperity (IPEF).
- Meanwhile, the State Department cited trade policy as a key tool in the Biden administration's efforts, in concert with the European Union, to end and reverse deforestation.
- Commerce Secretary Raimondo plans to use the recently revitalized President's Export Council to support the administration's efforts with regard to IPEF's supply chain pillar.

#### [Mark the Essentials]

- USTR Tai listed out the pandemic, Russia's invasion of Ukraine, the climate crisis, and the "digital transformation" inspired by technological development as the major challenges the administration currently seeks to address.
- At the same time, Katherine Tai prioritized the imperative for investment in U.S. domestic manufacturing, and suggested that it is a prerequisite for policies to bolster U.S. exports—a goal previously advocated by many critics on Capitol Hill.
- While both Tai and Raimondo repeatedly assured lawmakers that the administration is in constant engagement with Capitol Hill on the IPEF negotiations, Senate Finance Committee Chair Ron Wyden and other members of the panel felt that the administration was failing to achieve sufficient congressional engagement and therefore had not addressed their concerns about how "agreements like the IPEF will be approved". Further, Chair Wyden expressed his frustration that the administration was moving ahead on the IPEF negotiations without seeking Congressional approval.
- Commerce Secretary Gina Raimondo said that she will join the President's Export Council on a "fact-finding mission to select IPEF markets" to boost U.S. exports and investment overseas.



## [Keeping an Eye On...]

- For all its vaunted talk of ‘modern trade agreements’, the Biden administration seems to be satisfying no one with its novel approach to trade and economic engagement; not Congress, not business, not allies and partners or, for that matter, the letter and spirit of multilateral trade law. As best as one can understand, the new approach to trade and economic engagement aims to flip the existing policy dynamic inside-out. Rather than reinforce existing supply chains and their cost efficiencies, ‘modern trade agreements’ intend to diversify them and make them more resilient—even at the expense of undermining their underlying cost structures. Rather than perpetuate a supposed race-to-the-bottom dynamic, ‘modern trade agreements’ intend to create a race to the top. Exactly how this happens is a mystery. But it cannot be disputed that ‘building from the bottom up and from the middle out’ sounds at least eye-catching. The problem with this novel approach to trade and economic engagement is two-fold. First, it runs counter to Congress’ constitutional prerogative to regulate trade. It didn’t have to be this way; modern trade agreements don’t have to run against the will of Congress. But embarrassed by these agreements’ lack of substantive content—they don’t contemplate economic incentives and lack third party enforcement mechanisms in most cases—the Biden administration has chosen to bypass Congress. Second, this new approach to trade and economic engagement engages multilateral trade law from an *a la carte* perspective. It would be nice if global trade rules can be accommodated within the approach; if they cannot be accommodated, then those rules be damned. It is as if the international trading order is not part of the ‘rules-based order’ but instead centered on America’s rules and America’s version of order. At the end of the day, the crux of the Biden administration’s trade policy dilemma is this: as a trading superpower, the American government needs to be doing ‘something’ on trade; given the rise of economic nationalism domestically, it cannot continue to do the same thing that it used to do; so, it is attempting to do something else—anything else—which is not quite adding up; it is having difficulty explaining what exactly this ‘something’ is (it’s easy to explain what it isn’t), hence the trundling out of worker and labor-centered narratives; and all along it is hoping that whatever the ‘something’ it is attempting to do will somehow restore long-term wage growth and build out the middle class. Note to the Biden administration: building out the middle class is a task for budget and tax policy. Let trade policy focus on opening markets overseas and polishing economic competitiveness at home. USTR’s “unapologetically positive vision” on trade is in fact an “unapologetically *empty* vision.”

## [Expanded Reading]

- [Ambassador Katherine Tai’s Remarks at the National Press Club on Supply Chain Resilience | United States Trade Representative \(ustr.gov\)](#), Office of the United States Trade Representative, June 15, 2023
- [Bipartisan resentment grows as Biden pursues new trade talks](#), *Politico*, June 13, 2023
- [2023 Leadership Summit](#), Foreign Policy for America, June 11-13, 2023
- [Tai’s Friendshoring Field Trip to Latvia](#), *Politico*, June 12, 2023
- [Bidenomics and Its Contradictions](#), *The Wall Street Journal*, June 8, 2023 [Paywall]
- [Wyden Dissatisfied with Admin Response](#), *Politico*, June 5, 2023
- [Detroit, recent Apec host, embodies Joe Biden’s trade policy goal of renewal](#), *South China Morning Post*, June 5, 2023 [Paywall]
- [Ambassador Tai Tackles Trade: A Conversation With United States Trade Representative Katherine Tai](#), *Forbes*, May 31, 2023 [Paywall]
- [Reporting on Whole-of-Government Approaches to Stopping International Deforestation](#), U.S. Department of State, May 31, 2023
- [Letter from USTR Tai and Commerce Secretary Raimondo to Sen. Wyden, Chair of the Senate Finance Committee](#), Office of the USTR and Department of Commerce, May 30, 2023

- [Substantial Conclusion of Negotiations on Landmark IPEF Supply Chain Agreement](#), Department of Commerce, May 27, 2023
- [The Biden Administration Is Right on China and Trade, but Must Aim Higher](#), *National Interest*, May 21, 2023 [Paywall]

## 2 — TTC Progress Inspires More Expectations, as well as Concerns— 2

### [In One Sentence]

- At the end of the 4th U.S.-European Union Trade and Technology Council (TTC) ministerial, Secretary of State Antony Blinken lauded the “remarkable convergence” between the U.S. and EU in areas such as critical minerals, investments in clean technologies, and relations with China.
- Stakeholders and officials at the 4th TTC ministerial were happy about TTC’s progress, but business, labor groups and some EU and member state officials say that the outcomes need to be more ambitious.
- European Commission Executive Vice President and Trade Commissioner Valdis Dombrovskis said that the European Commission must seek a negotiating mandate from its member states before proceeding with negotiations with the U.S. on binding provisions in a potential critical minerals agreement.
- Industry representatives warn about critical challenges ahead in trans-Atlantic talks for global steel and aluminum arrangements and doubt that the U.S. and EU could meet the October deadline.

### [Mark the Essentials]

- While the officials hailed the achievements made at the TTC ministerial, stakeholders highlighted the disconnect between the consultation process and TTC outcomes, particularly when it came to resolving differences over digital regulation and data governance.
- The European Union is concerned about the prominence of geopolitical problems within the TTC discussions, which it fears will divert attention from addressing longer-term concerns.
- Commissioner Dombrovskis suggested that the U.S.-EU critical mineral agreement could include meaningful provisions on labor and environment issues, which is lacking in the U.S.-Japan critical minerals deal.
- While USTR is confident on reaching an agreement with the EU on steel and aluminum, citing their “shared commitment to joint action and deeper cooperation in the steel and aluminum sectors,” some industry leaders criticized the U.S. approach to resolving the disagreement as a “tariff scheme based on the differential in carbon intensity” while the EU focuses more on its carbon border adjustment mechanism.

### [Keeping an Eye On...]

- Twenty months after its establishment in Pittsburgh in September 2021, the U.S.-EU Trade and Technology Council (TTC) remains bogged down in high principles, vision statements, task force formations, and general good intentions. Most of the materially important deliverables that have been realized, such as the Russia sanctions, the Boeing-Airbus dispute settlement, on the Section 232 steel and aluminum tariffs, have occurred outside the TTC framework, even if the TTC has claimed authorship. On China, the head of steam built up to confront it tri-laterally (U.S.-EU-Japan) to modify its non-compliant industrial subsidy and non-market economy practices has been set back by non-market and non-compliant industrial subsidy practices in the U.S.—particularly in the Inflation Reduction Act, which predicate the disbursement of subsidies upon the use of domestic over imported goods. Finalizing work on an ambitious Global Sustainable Arrangement for Steel and Aluminum or on a bilateral electric vehicles-related critical minerals and battery components pact by the time of TTC’s fall meeting could provide a penultimate chance to salvage a meaningful accomplishment before the election-cycle-driven curtains come down for good on the U.S.-EU trade, investment and environment front

until mid-2025. In any case, certain work-streams within the U.S.-EU transatlantic framework may be overshadowed by the U.S.-United Kingdom economic work program encapsulated in the action plan under the recently launched ‘Atlantic Declaration’. The plan includes an economic security framework to advance close-knit cooperation on critical and emerging technologies (quantum, AI, semiconductors, cutting-edge telecoms, synthetic biology) as well as develop stronger protective toolkits for technologies and supply chains. Like the AUKUS pact, this U.S.-UK framework could well allow for deeper and more substantive collaboration on many of the transatlantic challenges on which Washington and Brussels have only been able to forge a superficial connection. The few substantive economic policy accomplishments that the Biden administration has been able to rack up have in any case occurred within bilateral or small plurilateral group settings (think: chip controls cooperation with the Netherlands and Japan or the budding minerals security partnership). They are more cohesive, are based on a tighter understanding of security interests, and are more amenable to the U.S.’ my-way-or-the-highway approach. If the TTC is to stay relevant, it needs to deliver—and deliver quickly.

### [Expanded Reading]

- [US Inflation Reduction Act has its allies running scared](#), *South China Morning Post*, June 12, 2023 [Paywall]
- [The Atlantic Declaration: A Framework for a Twenty-First Century U.S.-UK Economic Partnership | The White House](#), The White House, June 8, 2023
- [Key Takeaways from the TTC Ministerial](#), Center for Strategic and International Studies, June 8, 2023
- [Sunak and Biden reach for critical minerals deal in show of unity](#), *Politico*, June 8, 2023
- [U.S. Struggles to Turn Steel Imports ‘Green’ With Tariffs](#), *The Wall Street Journal*, June 7, 2023 [Paywall]
- [What's next for EU-US relations?](#), European Institute of Innovation and Technology, June 6, 2023
- [‘We’re not going back’: The U.S. and Europe are entering a new trade era](#), *Politico*, June 3, 2023
- [Joint Statement EU-US Trade and Technology Council of 31 May 2023 in Lulea, Sweden](#), European Commission, May 31, 2023

## On the Hill

### [Legislative Development]

- The four legislative sponsors of the Uyghur Forced Labor Prevention Act (UFLPA) lauded the expansion of the UFLPA Entity List as a “clear guidance to American companies for supply-chain mapping,” but vowed to bring more measures to “stop imports of forced labor made goods” such as car parts, solar panels, rayon and fashion garments.
- The House Transportation and Infrastructure Committee voted in overwhelming support of the Ocean Shipping Reform Act; a bill that seeks to investigate China's shipping exchanges and logistics software.
- House Ways and Means Committee trade subcommittee Chair Adrian Smith said he is working with lawmakers across the aisle to pass bills on the Generalized System of Preferences and Miscellaneous Tariffs.
- Meanwhile, a bipartisan, bicameral group of influential lawmakers are pushing to pass the “Level the Playing Field 2.0 Act”; a bill to reform U.S. trade remedy law and give the Commerce Department new enforcement tools to counter China.
- Bipartisan leaders of the Senate Finance Committee and the House Ways and Means Committee announced support for a bill that would “approve the first trade agreement signed under the U.S.-Taiwan Initiative on

21st-Century Trade and set robust transparency and consultation requirements for any future agreements negotiated under the initiative.”

### [Hearings and Statements]

- During a hearing of the House Judiciary Committee, lawmakers from both sides of the aisle warned against the further expansion of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement at the WTO, arguing that doing so would undermine innovation and potentially disadvantage U.S. IP *vis-à-vis* China.
- Sens. Chris Coons (D-DE) and Kevin Cramer (R-ND) introduced the “Providing Reliable, Objective, Verifiable Emissions Intensity and Transparency Act” which would direct the Energy Department to study and quantify U.S. emissions and compare them with other countries’, so that this information could be factored thereafter into trade policy decision-making.
- Lawmakers led by Rep. Barry Moore (R-Ala.) penned a letter calling on the Department of Agriculture and the USTR to press China on its restrictions on U.S. poultry exports which violate the Phase One trade deal.
- The leaders of the House Foreign Affairs and Select China committees called on Commerce Secretary Raimondo to press South Korea and Japan not to let their companies back-fill the market share in China of the recently-banned U.S. semiconductor firm Micron. They suggested that Commerce should use the Anti-Boycott Act of 2018 or recommend new amendments to swiftly respond to the ban.

### [Expanded Reading]

- [Chairs Say Entity List Additions a “Step In The Right Direction” but Robust Enforcement of UFLPA still Needed](#), Congressional-Executive Commission on China, June 9, 2023
- [US bans imports from China-based Ninestar over Uyghurs](#), Reuters, June 9, 2023
- [Wyden, Crapo, Smith and Neal Announce Bipartisan, Bicameral Legislation to Approve First Taiwan Trade Initiative Agreement](#), United States Senate Committee on Finance, June 9, 2023
- [Brown, Young Introduce Legislation To Strengthen Trade Remedy Laws, Protect American Workers](#), Office of Sen. Sherrod Brown (D-Ohio), June 7, 2023
- [Reps. Johnson, Sewell Introduce Bipartisan Legislation to Level the Playing Field for American Workers](#), Office of Rep. Bill Johnson (R-Ohio), June 7, 2023
- [Leveling the Playing Field 2.0 Act Introduced to Update and Strengthen U.S. Trade Remedy Laws](#), Wiley, June 7, 2023
- [Senators Coons, Cramer introduce legislation to study global emissions intensity and hold countries with dirty production accountable](#), Office of Sen. Chris Coons (D-Del.), June 7, 2023
- [IP and Strategic Competition with China: Part II – Prioritizing U.S. Innovation Over Assisting Foreign Adversaries](#), House Judiciary Committee, June 6, 2023
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## What's Been Happening

### 1 —Progress Made During Blinken Visit to China, Many Challenges Remain—1

#### [In One Sentence]

- Secretary of State Antony Blinken returned contentedly from a recent visit to Beijing after making “progress” and “reach[ing] agreement on some specific issues” in meetings with China’s President Xi Jinping and top Chinese foreign policy officials.
- At a fundraiser event immediately following Blinken’s China visit, President Biden referred to Xi’s ignorance of the surveillance balloon which went astray in February as an “embarrassment for dictators.”
- China was highly critical of Biden’s remarks, calling Biden’s language towards Xi “extremely absurd,” “irresponsible,” and an “open political provocation.”
- The House voted to approve the (mini) trade agreement with Taiwan but reserved Congress’ right to consult on any future negotiations.
- China responded to a joint declaration by the U.S. and its allies against “non-market policies and practices” with a list of U.S. subsidies, policies, and actions which Beijing views as economic coercion.

#### [Mark the Essentials]

- During the meeting between Xi and Blinken, the two sides agreed to follow through on the common understanding and agenda set by Xi and Biden at their Bali meeting in November 2022 and to develop principles to guide the bilateral relationship. Both sides agreed to conduct follow-up senior engagements “at a mutually suitable time.”
- When asked at a regular briefing, China’s Foreign Ministry said U.S. President Biden’s comment went against facts, seriously undermined diplomatic protocol, and severely infringed on China’s political dignity. The White House later confirmed that China sent an official diplomatic reprimand to Nicholas Burns, the U.S. Ambassador in Beijing.
- In addition to approving the initial agreement under the U.S.-Taiwan Initiative on 21st Century Trade, the current bill—as approved by the House—also imposes additional “congressional consultation and transparency requirements” on any subsequent agreements under the initiative. A number of Senators had hoped to advance the bill through an expedited process but the attempt was blocked by Senator Tom Cotton citing the lack of time to conduct a due diligence review of the bill.

- China Foreign Ministry spokesman Wang Wenbin, listing out U.S. policies including the CHIPS and Science Act's subsidies that bar recipients from expanding operations in China, U.S. restrictions of semiconductor exports to China, and U.S.' "suppression" of Huawei and TikTok, questioned whether these actions count as "typical economic coercion" and "non-market practice." Wang also highlighted the U.S. blockage of the WTO's Appellate Body nomination process and observed that the country "tramples on market economy principles and international trade rules."

### [Keeping an Eye On...]

- U.S. Secretary of State Antony Blinken's successful visit to Beijing has opened a window of opportunity to establish a more stable U.S.-China relationship. Whether the two sides can take advantage of this opportunity going forward remains to be seen. The United States and China have arrived at this point of reconnection and engagement with very different strategies. The Biden administration's strategy on China has been to 1) invest in domestic competitiveness, 2) align efforts with a network of allies and partners and, harnessing these two assets, 3) compete with China. Alongside, the administration has also sought to restrain China's technological rise as well as to isolate it internationally via ideological (Democracy Summits) and plurilateral (Quad and IPEF) frameworks and through bodies such as the G7. Having incentivized or leaned on allies and partners to chip away at their relationships with China, Washington now seeks to establish a 'floor' under its own working relations with Beijing. For China, on the other hand, there are no illusions that it can enjoy a productive relationship with the United States. There is simply no pathway. There are no illusions either that the bilateral trade and technology frictions are a mere economic matter. They are intended, rather, to suppress China's development and rise; eliciting, in turn, the call for a policy of "self-reliance". That said, forging the 'least worst' relationship with the United States still retains value to Beijing from a geopolitical and developmental standpoint, given that ties could yet hurtle to the point of total breakdown. For the United States and China to stabilize their relationship at this juncture, the two sides will need to tread the narrow corridor that joins their two strategies. Treasury Secretary Janet Yellen's visit and a proposed visit by presidential climate envoy John Kerry appear congruent with their overlapping functional interests—be it on global macroeconomic challenges, debt relief, or decarbonization. Had USTR Katherine Tai been able to formulate a recognizable China trade policy, she, too, might have been on the receiving end of an invitation to travel to Beijing. On the other hand, it is hard to see Secretary of Commerce Raimondo or Secretary of Defense Austin being invited to engage their Chinese counterparts in the months ahead given the hostility felt in Beijing against measures implemented by their agencies. The U.S.-China reconnection in the months ahead will necessarily be a halting and limited one, and the significant challenges in the relationship will not be resolved anytime soon—if ever. But, better that the two sides are on talking terms and engaging each other rather than sitting on the sidelines sullenly and taking potshots at each other.

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- [US House approves Taiwan trade deal, demands future oversight](#), South China Morning Post, June 22, 2023
- [US-China tensions: Biden calls Xi a dictator a day after Beijing talks](#), BBC, June 21, 2023
- ['Hell of a job': Biden's reaction and 5 other takeaways from Blinken's trip to China](#), CNBC, June 20, 2023
- [Secretary Blinken's Visit to the People's Republic of China \(PRC\)](#), Department of State, June 19, 2023
- [President Xi Jinping Meets with U.S. Secretary of State Antony Blinken](#), Ministry of Foreign Affairs of the People's Republic of China, June 19, 2023
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- [Joint Declaration Against Trade-Related Economic Coercion and Non-Market Policies and Practices](#),

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## 2 — Coordinated Efforts with Allies to ‘De-risk’ on China Accelerates — 2

### [In One Sentence]

- The U.S. plans to host a meeting in July to identify import dependencies of Indo-Pacific Economic Framework (IPEF) members and lay the groundwork for finalizing the IPEF supply chain deal.
- The European Commission is considering its own framework to restrict outbound investments in military and intelligence technologies by the end of the year, as part of a larger European Economic Security Strategy.
- The Organisation for Economic Cooperation and Development (OECD) adopted a ‘Strategic Framework for the Indo-Pacific’ to increase cooperation with ASEAN countries and align standards in supply chains, climate change, and the digital economy.
- A U.S. trade official said U.S.-EU trade and technology cooperation is not meant to counter or single out China but seeks to build a resilient alternative “to PRC models” that can “deliver for democracies.”

### [Mark the Essentials]

- According to U.S. officials, IPEF members have “substantially concluded” the supply chain pillar negotiations and intend to start “pre-implementation” during the meeting in July. The meeting will work on “supply chain monitoring and operations” and share best practices to “identify import dependencies and other potential supply chain bottlenecks” and “start some of the work that we have laid out.”
- In the recently released European Economic Security Strategy, Brussels expressed an European interest in preventing “actors who may...threaten international peace and security” from making advances in “a narrow set” of advanced dual-use technologies, and mentioned outbound investment screening as a possible means to achieve this objective. The Commission also stressed that any new policies would be implemented in “a proportionate and precise way” to limit “any negative unintended spill-over effects on the European and global economy.”
- The U.S. Department of Commerce has announced a plan for “fact-finding” trade mission visits to “link American exporters to opportunities in sectors wherein IPEF Partners are seeking increased diversification and resilience.” The U.S. also said it will utilize technical assistance and capacity building to increase investment in critical sectors, key goods, and physical and digital infrastructure.
- In discussing U.S.-EU cooperation on supply chains and infrastructure, Under Secretary of State for Economic Growth, Energy, and the Environment Jose Fernandez said that the U.S. and the EU do not seek to “decouple” from China but only to “de-risk,” adding that “you never want to be dependent on one or two suppliers for anything and not necessarily because they might weaponize that.”
- In laying out the negotiating objectives related to a critical minerals deal, the European Commission said it aims to diversify the international supply chains of critical minerals, facilitate trade, promote fair competition and market-oriented conditions, and ensure robust labor and environmental standards.

### [Keeping an Eye On...]

- The West’s march towards ‘de-risking’ its economic relationship with China continues steadfastly. On June 20, the European Commission released its European economic security strategy with a view to protect the Union against economic security risks, promote domestic competitiveness, and partner with the broadest range of like-minded nations to achieve the transition to a more resilient and secure economy. To this end, an expansive geoeconomic toolbox is to be employed, ranging from free trade agreements to digital partnerships, to green

alliances and partnerships, including raw materials partnerships. Insofar as the tools to be utilized to protect against the enumerated economic security risks—i.e., risks to the resilience of supply chains, to the physical and cybersecurity of critical infrastructure, in technology security and technology leakage, and regarding the weaponization of economic dependencies or economic coercion—these range from instruments targeting trade dumping, foreign subsidization, 5G/6G security, export controls, and foreign direct investment screening. To this toolkit, an outward investment-related instrument that will screen a narrow set of key outbound enabling technologies with military applications (in the areas of quantum, advanced semiconductors and artificial intelligence) is to be instituted as well. The key underlying principles that are to inform the economic security strategy are ‘proportionality’ and ‘precision’; ‘proportionality’ to ensure that the EU’s tools are in line with the level of economic risk and limit their unintended spillover effects and ‘precision’ to define exactly the goods, sectors or core industries that are to be targeted for protective measures. Multilateral cooperation and the rules-based framework is to provide the strategy’s essential foundation. It remains to be seen, going forward, if the economic security strategy can live up to its stated purpose as well as place guardrails on global economic fragmentation and protectionism as well as the trend towards a ‘might is right’ philosophy. Key in this regard will be whether the strategy is genuinely employed to facilitate derisking or is in fact a stalking horse for decoupling (as seems to be the case with the Biden administration’s approach despite the many protestations to the contrary). Establishing a list of key technologies that are indispensable to European economic security and assessing their risks is a critical next step. Much hinges on getting this step right—not least, to preserve the integrity of the European Union’s cherished single market.

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- [FACT SHEET: U.S.-EU Trade and Technology Council Deepens Transatlantic Ties](#), The White House, May 31, 2023
- [Press Statement on the Substantial Conclusion of IPEF Supply Chain Agreement Negotiations](#), Department of Commerce, May 27, 2023





### [Legislative Development]

- A bipartisan group of lawmakers re-introduced a bill to prevent Chinese companies from purchasing U.S. farmlands by imposing a “foreign adversary”; specifically, a tax of 60%.
- Senate Homeland Security and Governmental Affairs Committee Chair Gary Peters introduced a bill to establish an intergovernmental task force to increase domestic production and recycling of critical minerals.
- House Ways & Means Committee trade subcommittee ranking member Earl Blumenauer introduced an updated version of the bill to exclude China from *de minimis* tariff benefits—the rule that enables imports valued at or below \$800 to be free from tariffs.
- Blumenauer’s *de minimis* bill echoes a similar legislative proposal by Senator Bill Cassidy and Senator Tammy Baldwin, which seeks to direct the Treasury Department to adjust *de minimis* thresholds to match “the threshold our trade partners use.”

### [Hearings and Statements]

- House China Committee Chair Mike Gallagher questioned the Biden administration about U.S. intelligence’s “awareness” of a “Chinese spy base in Cuba” and called for the administration to “have a stronger reaction [to] the development.”
- In discussing the enforcement of the Uyghur Forced Labor Prevention Act, a U.S. Customs and Border Protection official said the agency has noted “a lot” of evasion of U.S. enforcement and called for a close monitoring of commodities flowing out of Xinjiang.
- Commenting on the Department of Homeland Security’s decision to sanction two Chinese companies under the Uyghur Forced Labor Prevention Act, sponsors of the said bill noted that it was “a step in the right direction” but that continued work was necessary.

### [Expanded Reading]

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- [H.R.3996 - Protecting American Farmland Act](#), Congress.gov
- [Chairs Say Entity List Additions a “Step in the Right Direction” but Robust Enforcement of UFLPA Still Needed](#), Congressional-Executive Commission on China, June 9, 2023

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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.

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- [China, EU & USMCA all on tap](#), *Politico*, July 5, 2023
- [GT Voice: US, its allies need to listen to China’s warning on key materials exports](#), *Global Times*, July 4, 2023
- [The Future of International Economic Policy with Deputy National Security Advisor Mike Pyle](#), Carnegie Endowment for International Peace, June 29, 2023
- [U.S. Department of Commerce Secretary Gina Raimondo Releases 2023 National Export Strategy](#), Department of Commerce, June 29, 2023
- [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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## 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."

### [Expanded Reading]

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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?

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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.

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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.

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## 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.

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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 13<sup>th</sup> 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.

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

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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]

- [360° View of Secretary Raimondo's Recent Visit to China](#), Wilson Center, September 5, 2023
- [A new Huawei phone has defeated US chip sanctions against China](#), Quartz, September 5, 2023
- [U.S. Commerce secretary says she ‘didn’t pull any punches’ during recent visit to China](#), CNBC, September 3, 2023
- [New phone sparks worry China has found a way around U.S. tech limits](#), *The Washington Post*, September 2, 2023 [Paywall]
- [Huawei's coy 5G breakthrough](#), *LightReading*, September 1, 2023
- [Raimondo's 'bold move' in China](#), *Politico*, August 31, 2023
- [US-China trade: market sees clouds clearing for Boeing after Raimondo visit elevates hope of an order frenzy](#), *South China Morning Post*, August 31, 2023 [Paywall]
- [Warm words but little ‘real action’ as US commerce secretary ends China visit](#), *CNN Business*, August 30, 2023
- [U.S. Does Not Want to ‘Decouple’ From China, Commerce Chief Says](#), *The New York Times*, August 29, 2023 [Paywall]
- [Commerce chief says US firms complain China is 'uninvestible'](#), *Reuters*, August 29, 2023 [Paywall]
- [U.S. Secretary of Commerce Gina Raimondo to Travel to the People’s Republic of China](#), U.S. Department of Commerce, August 22, 2023

## 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]

- [US extends tariff exclusions on some Chinese categories till end of 2023](#), Reuters, September 6, 2023 [Paywall]
- [Bown: China’s economic slowdown could test the world trading system’s resilience](#), Inside U.S. Trade, August 29, 2023 [Paywall]
- [The WTO Panel Report on Chinese Tariffs: Consequences of a Broken Appellate Body](#), Center for Strategic & International Studies, August 25, 2023
- [China’s economic slump gives US a chance to gain clout with countries indebted to Beijing: analysts](#), South China Morning Post, August 22, 2023 [Paywall]
- [US Expands Nuclear Export Controls on China](#), Skadden, August 17, 2023
- [President Biden Orders Establishment of New Program to Restrict US Outbound Investment in Certain Tech Sectors in China](#), White & Case, August 16, 2023
- [How Biden’s New Outbound Investment Executive Order Will Impact U.S.-China Relations](#), Carnegie Endowment for International Peace, August 15, 2023
- [Wilson Center Experts’ Analysis of Outbound Investment Executive Order](#), Wilson Center, August 15, 2023
- [China issues report on US violation of WTO rules](#), ChinaDaily, August 11, 2023

- [Biden's new outbound investment restrictions with China are a sensible compromise, but further tightening is likely](#), Peterson Institute for International Economics, August 10, 2023
- [BIS Proposes Changes to the Section 232 Steel and Aluminum Exclusion Process](#), Lexology, August 10, 2023
- [White House restricts U.S. investment in some Chinese tech, citing national security concerns](#), CNBC, August 9, 2023
- [Executive Order on Addressing United States Investments in Certain National Security Technologies and Products in Countries of Concern](#), The White House, August 9, 2023
- [Taiwan – U.S. 21st Century Trade Initiative, More Than Just A Trade Agreement. A Statement To Beijing Perhaps](#), Mondaq, August 8, 2023
- [Statement from President Joe Biden on H.R. 4004, the United States-Taiwan Initiative on 21st-Century Trade First Agreement Implementation Act](#), The White House, August 7, 2023

### 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."

### [Expanded Reading]

- [China slowdown 'mostly positive' for EU economy, says Bruegel economist](#), *Euractiv*, August 31, 2023
- [Tai: New, global approach to trade not a 'flash in the pan'](#), *Inside U.S. Trade*, August 31, 2023 [Paywall]
- [U.S. trade chief flags concerns over India's license mandate for laptop, tablet imports](#), *Reuters*, August 27, 2023 [Paywall]
- [What to Expect at India's G20 Summit](#), Center on Foreign Relations, September 5, 2023
- [U.S.-India relationship has reached new heights as the two align across policy areas, USTR says](#), *CNBC*, August 28, 2023
- [China's Trade and Development with BRICS: Analysis and Opportunities](#), *China Briefing*, August 23, 2023
- [China, Russia Deliver BroadSides Against the West at Brics Summit](#), *The Wall Street Journal*, August 23, 2023 [Paywall]
- [CNAS Responds: The Spirit of Camp David: Joint Statement of Japan, the Republic of Korea, and the United States](#), Center for a New American Security, August 18, 2023
- [FACT SHEET: The Trilateral Leaders' Summit at Camp David](#), White House, August 18, 2023
- [EU's China policy needs a revamp, but there's no one-size-fits all solution](#), *South China Morning Post*, August 17, 2023 [Paywall]





# ICAS TRADE N TECH DISPATCH

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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
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- [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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## What's Been Happening

### 1 — The EU's Derisking Dilemma — 1

#### [In One Sentence]

- The European Commission's Executive Vice-President Valdis Dombrovskis said that “the EU has no intention of decoupling with China” but “also needs to protect itself” to ensure open and fair global trade.
- During a visit to China, Dombrovskis said that the EU will be more “assertive” in “de-risking” efforts to ensure “economic resilience” and to create a “level playing field” in trade and economic engagements.
- Meanwhile, the EU agreed to resume regular exchanges with China to discuss macroeconomic issues, continue discussions on a possible transparency mechanism on critical raw materials supply chains, and establish working groups on specific sectoral issues.
- U.S. President Joe Biden will host European Commission President Ursula von der Leyen and European Council President Charles Michel at the White House for the second U.S.-EU Summit on October 20, 2023.
- Former Trade and Technology Council (TTC) working group co-chair Gerard de Graaf has recommended U.S. and EU leaders to discuss past lessons and effective mechanisms to ensure the TTC's “continuity” given upcoming elections on both sides.
- De Graaf also underlined the importance of better associating the stakeholder community to the TTC and ensuring that the TTC is not exclusively a channel confined to the inter-governmental level.

#### [Mark the Essentials]

- In a speech at China's Tsinghua University ahead of his meeting with Chinese Vice Premier He Lifeng, European Commission Executive Vice-President Valdis Dombrovskis expressed concerns about the “lack of reciprocity” in EU-China economic ties, pointing to the EU's growing trade deficit with China as well as more difficult business and investment environment in China. Dombrovskis said EU companies are struggling to comply with China's new foreign relations law and the updated anti-espionage law and added that EU firms hope to be part of China's “success story.”
- When asked about the European Union's investigation into subsidy practices of the electric vehicle industry in China, Dombrovskis confirmed that non-Chinese carmakers that have operations in China—such as BMW and Tesla—are also subject to scrutiny. Dombrovskis said he tried to reassure Chinese authorities that the investigation has a well-established, fact-based process in compliance with “WTO principles,” but Chinese

officials have voiced concerns about the investigation's short consultation period and inadequate due process with private firms.

### [Keeping an Eye On...]

- Following on to Commission President Ursula von der Leyen's September 13 announcement during her State of the European Union (SOTEU) speech, the European Commission formally launched an anti-subsidy investigation at its own initiative on October 4 into the imports of battery electric vehicles (BEV) from China. The probe is expected to deliver two key findings. First, that BEV value chains in China benefit from illegal subsidization, particularly in the form of state-subsidized financing; provision of preferential export insurance; tax reductions, rebates and exemptions; and government provision of goods (such as raw and input materials as well as components) and services for less than adequate remuneration. Second, that the subsidized imports are causing or threatening to cause economic injury to European BEV producers. A provisional countervailing duty (CVD), over and above the EU's 10% tariff on cars, will almost certainly be imposed sometime during the summer of 2024. The more interesting development will be what follows thereafter. In high likelihood, the European Commission will sit down with a group of Chinese BEV exporters and ancillary companies and hash out a (progressively declining) minimum import price and annual import volume undertaking, plus a provisional duty levied on imports above the annual level, to remove the injurious effects of subsidization. Non-cooperating BEV exporters will be slapped with much higher definitive (final) duties later in 2024. The green transition, including in the auto sector, is too important to Europe's interests for it to slouch towards the labyrinth of protectionism. The presence of Chinese BEV's in the market does not constitute a national security risk. On the other hand, the surge of low-priced imports gaining significant market share leading to losses within Europe's auto industry is untenable, especially at a time when sustained domestic investments are required to transition the sector towards full electrification. The European Commission's goal, therefore, will be to reach an amicable solution with China's government first, and thereafter with its auto exporters, to halt the price depression and stabilize prices—given that stabilized prices are important not only for current production but for future investment decisions as well. This will inevitably lead to a slow-down in Chinese car exports to the bloc and incentivize a shift of a certain amount of production to within the bloc—much like Japanese auto manufacturers began doing forty years ago. When the Commission's Executive Vice President and China's Commerce Minister co-chair their 11<sup>th</sup> High-level Economic and Trade Dialogue next year, they should prepare the stage for initiating this joint undertaking between the Commission and China's BEV exporters. Overall, the anti-subsidy probe is to be welcomed for facilitating, in effect, a tighter trade and investment relationship in the battery electric vehicle sector between Europe and China.

### [Expanded Reading]

- [Statement from Press Secretary Karine Jean-Pierre on U.S. – EU Summit](#), The White House, September 28, 2023
- [EV makers such as Tesla could fall under Europe's subsidy probe into China, EU's trade chief says](#), CNBC, September 28, 2023
- [EU, China rein in trade angst, set agenda for further dialogue](#), Reuters, September 25, 2023
- [EU calls for greater market access and fair competition at EU-China High-Level Dialogue](#), European Commission, September 25, 2023
- [Statement by Executive Vice-President Dombrovskis at the press conference following the 10th EU China High-Level Economic and Trade Dialogue](#), European Commission, September 25, 2023

- [EU commissioner calls for more balanced trade with China and warns that Ukraine could divide them](#), *Associated Press*, September 25, 2023
- [China's 'unfairness' warrants a more assertive EU approach, warns trade chief Valdis Dombrovskis](#), *South China Morning Post*, September 25, 2023 [Paywall]
- [EU does not want to decouple from China but must protect itself, says EU trade chief](#), *Reuters*, September 23, 2023

## 2 — The U.S. and China in a ‘New Era’ of Globalization — 2

### [In One Sentence]

- At the United Nations General Assembly, U.S. President Joe Biden said that the U.S. will continue to lead World Trade Organization (WTO) reform and “make global institutions more responsive, more effective, and more inclusive.”
- U.S. Trade Representative Katherine Tai later said the U.S. is “thinking creatively” beyond a traditional negotiation mindset with regard to WTO reform discussions and proposes “alternatives to litigation” like “good offices, conciliation, and mediation.”
- China’s State Council released a White Paper that calls for “a new type of economic globalization” where countries “explicitly oppose” “protectionism” and “unilateral sanctions” and work together to engage in mutually beneficial cooperation.
- The White Paper also notes a “widening gap between developed and developing countries, and that within developed countries” and argues it is a result of the current “zero-sum game,” “winner-takes-all” mindset.
- China previously said that it would appeal the WTO panel report that rejected China’s retaliatory measures against the U.S. Section 232 tariffs on steel and aluminum, advancing the issue to the now-paralyzed Appellate Body.
- Citing the significance of emerging and foundational technologies such as generative AI, U.S. Secretary of State Antony Blinken said the U.S. seeks to “advance our vision for the technological future” and to “shape the rules of the road” through “tech diplomacy.”

### [Mark the Essentials]

- According to USTR Tai, the U.S. is “asking” WTO members to engage in “interest-based” conversations and discussions as opposed to traditional “position-based or end-result-based” negotiations. Tai said that the latter process is “positional”, “uncreative” and “constipated” whereas the former is “inclusive” and would reflect interests of all members of the WTO, including the U.S. and its “developing-country partners.”
- Three WTO committees have adopted proposals to improve the “functioning” of its bodies through procedural reforms such as implementing e-Agendas, providing streamlined agendas and providing convening notices further in advance of scheduled meetings.
- According to survey results from the American Chamber of Commerce in Shanghai, American companies in Shanghai have worse business results and a historically low outlook for the China market amidst the U.S.-China bilateral economic tensions and macroeconomic pressures. Although companies say they are delaying or canceling investment decisions in China, only fewer than 6% plan to reshore back to the U.S.
- Former officials and researchers have warned that the current expansion and escalation of export controls between U.S. and China could fuel nationalism and a “me-first” mindset, thereby suppressing multilateralism and threatening the global trade order. Researchers also cautioned that if U.S. companies such as in the
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semiconductor industry are prohibited from selling to China, it could lead to reduced sales, smaller margins, less hiring and less spending on research and development.

- Defending the U.S. proposal for a transatlantic arrangement for global sustainable steel and aluminum, USTR Tai said that the proposal should be compatible with WTO rules but admitted that the arrangement may face challenges at the WTO in the same vein as the EU's carbon border adjustment mechanism.

### [Keeping an Eye On...]

- USTR Katherine Tai's approach to reform of the WTO's dispute settlement system appears to be going the same way as her approach to the review and modification of the U.S.' Section 301 tariffs—i.e., lots of seemingly earnest talk of seeking consensual pathways forward backed however by zero intention to actually deliver a workable solution. Fifteen months after the Section 301 tariff review was initiated, the process continues to meander along, with little expected by way of material modification to the tariffs once the review is completed. More to the point, the review was necessitated for statutory reasons and hence had to be conducted. Left to her own devices, the tariffs would not even have been reviewed (although she would never have conceded that), given that the tariffs have become a hot potato within the body politic. In much the same way, USTR Tai's serious-minded talk of creative ways forward on reform of the WTO, including of its dispute settlement system, is pure hot air. There is little-to-no intention of restoring the functioning of the WTO's Appellate Body, and the only reason that she indulged in her seemingly earnest talk is because the vast membership of the WTO would like the matter to be actively dealt with at the forthcoming 13<sup>th</sup> Ministerial Conference (MC13) in Abu Dhabi in February 2024. Absent this driver, she would not even be mentioning dispute settlement system reform. And why would she? Almost every major U.S. external-facing trade and investment measure in recent times, from the Section 232 and Section 301 tariffs to the Inflation Reduction Act's tax credit provisions to the proposed Global Arrangement for Sustainable Steel and Aluminum, falls afoul of WTO law. If disregarding multilateral trade law is the price to be paid to decouple from China, politely referred to as building supply chain resilience, then so be it. For those inclined to push for forward progress at MC13 in Abu Dhabi, they would be better off turning their attention to the issues of food security, ecommerce/digital trade, and the outstanding matters related to fisheries subsidy disciplines that were unresolved at MC12 (S&DT flexibilities for least developed countries; exceptions for certain subsidies).

### [Expanded Reading]

- [Why the Developing World and All of Us Need Trade and the WTO](#), event at the Center for Strategic & International Studies, September 22, 2023
- [Transatlantic Forum on GeoEconomics](#), event at the Atlantic Council, September 22, 2023
- [Full Text: A Global Community of Shared Future: China's Proposals and Actions](#), State Council Information Office of the People's Republic of China, September 2023
- [Remarks by President Biden Before the 78th Session of the United Nations General Assembly | New York, NY](#), The White House, September 19, 2023
- [The costs of export restrictions to the global economy](#), Hinrich Foundation, September 19, 2023
- [U.S. trade and investment restrictions: laudable but costly goals](#), Yeutter Institute International Trade Policy Review, September 19, 2023
- [AmCham Shanghai Releases Report on Business Climate in China](#), AmCham Shanghai, September 18, 2023

### [Legislative Developments]

- Democratic lawmakers in both chambers introduced a bill to impose taxes on virgin plastics to reduce plastic waste worldwide.
- House Appropriations Committee member Adriano Espaillat announced support for the Americas Act, giving the bill support in both the House and Senate and across both parties. The Act would strengthen U.S. trade partnerships in the Western Hemisphere to reshore and nearshore manufacturing and tighten the U.S.' *de minimis* rule against imports from China.
- The U.S. Department of Commerce published a final rule to interpret the CHIPS and Science Act's China 'guardrail' rules which more or less hews to the proposed rule issued earlier this March, but expands the rule's application narrowly in certain areas of chip production while at the same time allowing subsidy recipients to share technology with Chinese nationals working in their establishments in the U.S. and allied countries.

### [Hearings and Statements]

- Leaders of a number of House committees have urged the Bureau of Industry and Security to revoke and remove all license exceptions for exports to Huawei and Semiconductor Manufacturing International Corp (SMIC). The lawmakers argue that Huawei's development of a 5G smartphone containing 7-nm chips "suggest a blatant violation of U.S. export control regulations."
- At a subcommittee hearing of the House Energy and Commerce Committee, lawmakers disagreed over the institutional and structural approach to make the Commerce Department more involved in strengthening supply chain transparency and resilience.
- House Ways & Means Committee's trade subcommittee Chair Adrian Smith said that committee members are "anxious" to move forward with the reauthorization of the Generalized System of Preferences (GSP).
- At a hearing of the Senate Agriculture Committee, lawmakers advocated for introducing restrictions on Chinese and other foreign ownership of U.S. agricultural land.

### [Expanded Reading]

- [Foreign Ownership in U.S. Agriculture](#), hearing in front of the U.S. Senate Committee on Agriculture, Nutrition, & Forestry, September 27, 2023
- [Preventing the Improper Use of CHIPS Act Funding](#), Federal Register, September 25, 2023
- [Cassidy, Bennet, Salazar Announce Espaillat as New Co-Lead for Landmark Americas Act](#), Office of Senator Bill Cassidy, September 21, 2023
- [Innovation, Data, and Commerce Committee Hearing: "Mapping America's Supply Chains: Solutions to Unleash Innovation, Boost Economic Resilience, and Beat China."](#) hearing in front of the U.S. House Energy & Commerce Committee, September 20, 2023
- [Trade Subcommittee Hearing on Reforming the Generalized System of Preferences to Safeguard U.S. Supply Chains and Combat China](#), hearing in front of the U.S. House Ways & Means Committee, September 20, 2023
- [REDUCE Act would levy a fee on production of virgin plastics to incentivize reuse and recycling](#), Office of Rep. Lloyd Doggett, September 19, 2023
- [McCaul Leads House Chairs Urging Action Against Huawei and SMIC](#), House Foreign Affairs Committee, September 14, 2023
- [Cassidy, Salazar Release Draft Legislation to Counter China, Build Stronger Western Hemisphere](#), Office of Senator Bill Cassidy, January 11, 2023

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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 Republican 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



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## What's Been Happening

### 1 — U.S. Retailing Approach to Digital Trade Amid MC13 — 1

#### [In One Sentence]

- At the latest round of e-commerce talks at the World Trade Organization (WTO), members expressed strong support and a commitment to concluding the talks soon, ideally by the end of 2023.
- U.S. Trade Representative (USTR) Katherine Tai says she is re-examining the United States' approach to data flows and source codes and will no longer support the relevant proposal in the WTO e-commerce talks.
- U.S. Ambassador to the WTO Maria Pagan told reporters that WTO members have not agreed on delivering on WTO dispute settlement reform by the 13th Ministerial Conference (MC13), to be held in February 2024, adding that the U.S. is “putting in the work” and hopes to “deliver something by next year.”

#### [Mark the Essentials]

- According to the co-convenors of the WTO e-commerce talks, the Joint Initiative on e-Commerce talks has “parked” 12 articles, covering such areas as online consumer protection, electronic signatures, spam regulations, open government data, paperless trading, cybersecurity, open internet access and electronic transaction frameworks. The 90 members participating in the talks have also achieved “good progress” on “privacy and telecommunications services disciplines.”
- In e-commerce work program meetings held in preparation for MC13, WTO members expressed support for enhancing technical assistance and capacity building and called for more work to extend the moratorium on customs duties on e-commerce.
- In the lead up to MC13, WTO will host a meeting among senior officials to discuss dispute settlement reform, fisheries subsidies, as well as agriculture and trade issues insofar as they relate to bridging development gaps, and thereby lay a strong foundation for the upcoming ministerial conference.
- Biden administration officials have stated that the U.S. remains committed to a “commercially meaningful” deal on data flows and source codes but hopes that the current e-commerce talks can focus on what can be achieved by year-end and to drop proposals that do not have sufficient support among participating members.
- In a statement responding to USTR's withdrawal of support for the data flow and source code proposal at the WTO, Senate Finance Committee Chair Ron Wyden said that USTR was “abandoning our democratic allies” with “virtually zero consultation with Congress.” According to Wyden, USTR's position “directly contradicts

its mission as delegated by Congress” and “it may be time to reconsider the degree of that delegation going forward.” Republican lawmakers on the Senate Finance Committee expressed similar sentiments.

### [Keeping an Eye On...]

- Free trade is not an end in and of itself; it is a means to an end. That end is the prosperity and welfare of the consumer. The ultimate purpose of free trade, including free trade in the digital and data flow sphere, is to champion the consumer’s interest. For certain hidebound free trade ideologues, this may be a difficult concept to grasp; for most others, this should not be so difficult to comprehend. In a consequential decision that will resonate for years if not decades, the Biden administration’s Office of the U.S. Trade Representative—a hotbed of the worker’s interest which more often than not does not align with the consumer’s interest in trade policymaking—has let it be known that it will no longer support certain untrammelled provisions in digital trade agreements such as the unrestricted free flow of data across borders, a total ban on data localization requirements, and proscriptions barring the turning over of proprietary source codes. USTR’s decision is part of a larger assessment and reform of digital governance—and in particular the regulatory precepts that govern competition and taxation policy in this sector—by the Biden administration, with a view to modernizing these rules. It was always a long shot to expect, therefore, that international data flow rules could somehow preempt or flout the redrawing of domestic regulation in this sector. That eventuality has now come to pass. Indeed, this decision by USTR to delineate regulatory ‘policy space’ within digital trade agreements is timely, given the dynamism and fluidity of innovation, processes and practices in the sector as well as the fast-paced changes in regulatory best practices. For example, it is now progressively accepted that as internet platforms increasingly rely on artificial intelligence (AI) and machine learning (ML)-based tools for content moderation, ad targeting and delivery, and content ranking and recommendation, it is in the interests of the data-sharing-and-using public that regulations be inscribed that provide vetted researchers access to such platform data so as to ensure accountability around the platforms’ algorithmic systems. Rules demanding such access to algorithmic “black boxes” would have been inconceivable even five years ago. USTR’s decision has come not a day too soon and should be welcomed.

### [Expanded Reading]

- [E-commerce co-convenors: “We must lock in the credible package that we have in our hands.”](#) World Trade Organization, October 27, 2023
- [Exclusive: Reform proposals emerge to fix WTO by early 2024 - document](#), Reuters, October 26, 2023
- [Crapo and Colleagues Condemn Biden Administration’s Decision to Cede U.S. Digital Leadership to China](#), Office of Senator Mike Crapo, October 26, 2023
- [Wyden Statement on Ambassador Tai’s Decision to Abandon Digital Trade Leadership to China at WTO](#), United States Senate Committee on Finance, October 25, 2023
- [US drops digital trade demands at WTO to allow room for stronger tech regulation](#), Reuters, October 25, 2023
- [Facilitator of e-commerce work programme seeks members’ views on way forward](#), World Trade Organization, October 19, 2023

## 2 — Larger Divisions Expected as U.S.-China Derisking Plows Ahead — 2

### [In One Sentence]

- The U.S. Department of Commerce further tightened its export control rules on advanced semiconductor, semiconductor manufacturing equipment, and supercomputing to China.
- Analysts say that the Belt and Road Initiative has adjusted its approach in response to criticism, concerns and the impacts of U.S.-China competition.

- Some researchers have warned that U.S. attempts to exclude China from international standard-setting for critical and emerging technologies could create unintended technical barriers to trade for U.S. firms.

### [Mark the Essentials]

- With some U.S. lawmakers considering ending U.S. permanent normal trade relations with China, a recent study from the National Retail Federation showed that increased U.S. tariffs resulting from the move could cost American consumers \$31 billion in spending power.
- Following reports that Asiaway—a Mexican automobile manufacturer owned by a Chinese company—may have dismissed a worker for joining a labor union, the Office of the United States Trade Representative joined by the U.S. Department of Labor asked Mexico to review the case and “resolve the issues present.”
- The U.S. Court of Appeals for the Federal Circuit has approved, for the second time, an extension request by the U.S. government to file its reply brief in the lawsuit challenging the legality of the Section 301 tariffs on Chinese goods.

### [Keeping an Eye On...]

- On October 17, one year after the Biden administration issued its hard-hitting China-focused export control rule 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 another rule—this time, one more expansively written—to achieve the original objective. The *2023 Semiconductor Manufacturing Items Rule* and the *2023 Advanced Computing Rule*, 436 pages in total, aims to restrict China’s ability to obtain advanced computing chips, develop and maintain supercomputers, and manufacture advanced semiconductors. In late-October, it became known that the export control order had come with a sting in the tail. As per a letter sent by the U.S. government to Santa Clara-based advanced AI chip design giant, Nvidia, the new restriction on the sale of high-end chips to countries is to take effect immediately. Typically, export control orders introduced by the Bureau of Industry and Security come with a 30-day grace period, enabling rush deliveries of certain prized items in previously placed orders. As a result of the ‘in effect immediately’ injunction, almost \$5 billion of advanced AI chips destined to China’s AI and cloud computing companies, including Alibaba, ByteDance and Baidu, over the next month will likely have to be canceled. Of course, this is a big blow to Nvidia’s bottom line. But this is a bigger blow to the Chinese users of these chips, and they have to settle for training their AI systems with less advanced, lower performance ones. How binding this denial will be on the pace of innovation in the Chinese digital ecosystem in the longer run remains to be seen, however.

### [Expanded Reading]

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- [Xi’s keynote speech at 3rd Belt and Road Forum for Int’l Cooperation published](#), *Xinhua*, October 31, 2023
- [United States Seeks Mexico’s Review of Alleged Denial of Workers’ Rights at Asiaway Automotive Components Mexico](#), Office of the United States Trade Representative, October 23, 2023
- [China Section 301 Litigation Update](#), Grunfeld Desiderio Lebowitz Silverman & Klestadt LLP, October 20, 2023
- [Commerce Strengthens Restrictions on Advanced Computing Semiconductors, Semiconductor Manufacturing Equipment, and Supercomputing Items to Countries of Concern](#), U.S. Department of Commerce, October 17, 2023

- [Higher U.S. Tariffs on Chinese Imports Would Cost Consumers \\$31 Billion, NRF Study Says](#), National Retail Federation, October 12, 2023
- [Unpacking the Biden Administration's Strategy for Technical Standards: The Good, the Bad, and Ideas for Improvement](#), Information Technology & Innovation Foundation, October 10, 2023

### 3 — U.S. Making Progress on Trade Negotiations with Partners, Challenges Lie Ahead — 3

#### [In One Sentence]

- Despite a meeting between U.S. and EU leaders at the White House, the U.S. and the EU have yet to reach an agreement on a global steel and aluminum arrangement.
- In a multi-association letter issued ahead of the U.S.-EU Summit, a number of U.S. business groups called on the Biden administration to “push back against protectionist tendencies in Europe” in the digital sector and with regard to corporate sustainability requirements.
- The United States has noted that members of the Indo-Pacific Economic Framework (IPEF) “continued to make progress” on negotiations, but differences remain on digital trade, labor and environment standards.
- An additional in-person negotiating round in San Francisco has been planned ahead of the Asia-Pacific Economic Cooperation (APEC) Leaders’ Summit and the IPEF ministerial meeting that was set to occur on its sidelines.

#### [Mark the Essentials]

- Analysts have cautioned against differing policy and legal approaches between the U.S. and EU in artificial intelligence technologies, arguing that the EU tends to take a broader, top-down “risk-based approach” to AI regulation whereas U.S. efforts have been more bottom-up, targeted, and experimental. This, they argue, could lead to different regulatory frameworks, trade barriers, and additional compliance burden for technology companies.
- The Office of the U.S. Trade Representative (USTR) expressed an inclination to reevaluate its stance on digital sovereignty matters. USTR Katherine Tai observed that certain measures that “may look like they have a discriminatory effect may or may not be advanced with a discriminatory intent,” when answering a question about the European Union’s new digital policies. Criticizing the EU’s “digital sovereignty agenda,” National Foreign Trade Council (NFTC) President Jake Colvin observed that such statements showed USTR’s “troubling deviation” from its responsibility to “stand up for American businesses and workers.”
- At a recent event, the White House’s National Security Council coordinator for the Indo-Pacific Kurt Campbell said that the United States will join the APEC leaders’ summit as “the leading economy” and “the destination of perhaps first resort for a lot of investment in technology.” He went on to argue that “many of” the people who previously looked at China for “investment opportunities” are now turning to the U.S.

#### [Keeping an Eye On...]

- With the mid-month APEC Leaders’ Summit fast approaching, the Indo-Pacific Economic Framework (IPEF) negotiators will be huddling in San Francisco this week to hammer out deals that can be presented by their respective leaders and ministers as a major achievement. The hope is that the negotiations on the (mostly toothless) clean economy (Pillar III) and fair economy (Pillar IV) pillars can be closed out by the time their leaders meet mid-month in San Francisco. Closing out the trade pillar (Pillar I) is an altogether different

matter; negotiators will have difficulty obtaining stakeholder buy-in to close out these negotiations, even in 2024. Nevertheless, with all the attention being showered on the IPEF talks, the U.S.-chaired APEC Leaders' Summit is effectively doubling as an IPEF Leaders' Summit. This is not unfamiliar territory for the United States. In the third year (of the first term) of the previous Democratic administration, the Obama administration too had volunteered as the host country of APEC, and had thereafter commandeered the APEC platform to aggressively push the Trans-Pacific Partnership (TPP) negotiations to a successful conclusion. The smaller TPP membership also comprised states that were members of APEC and like IPEF's membership excluded China. The effect of the Obama administration's role as APEC chair in 2011 was to both suck the oxygen out of APEC's agenda that year as well as make important progress in the TPP negotiations during the year. With a U.S. presidential election year looming in 2012, it was understood that the negotiating clock would effectively run out at the end of the year. In the event, by the time of the APEC Honolulu Summit in November 2011, gaps still remained among the TPP parties—progress notwithstanding. It was not until the third year of the second Obama administration that the gaps on intellectual property, sugar and dairy market access, rules of origin, state-owned enterprises and automotive issues with Japan finally began to close. It is clear that the Biden team has borrowed the Obama administration's APEC playbook to concentrate minds among the IPEF negotiating parties in this pre-election year. And though the substance of the IPEF negotiations bear no similarity or comparison to the depth and richness of the TPP text, it is just as likely that significant gaps will continue to persist among the parties even after the San Francisco APEC Leaders' Summit.

### [Expanded Reading]

- [AI Safety Summit: China, US and EU agree to work together](#), *Reuters*, November 1, 2023
- [U.S. will extend EU metals tariff exemption if needed -envoy](#), *Reuters*, October 25, 2023
- [Joint USTR and U.S. Department of Commerce Readout of Sixth Indo-Pacific Economic Framework Negotiating Round in Malaysia](#), Office of the United States Trade Representative, October 25, 2023
- [Remarks by President Biden, European Council President Charles Michel, and European Commission President Ursula von der Leyen Before Trilateral Meeting](#), The White House, October 20, 2023
- [U.S. extends freeze on EU steel tariffs to create 'breathing room' for talks](#), *Politico Pro*, October 20, 2023 [Paywall]
- [Multi-association letter to President Biden in advance of the 20 U.S.-EU Summit](#), U.S. Chamber of Commerce, October 17, 2023
- [NFTC President Jake Colvin: Will the Biden Administration Stand Up for American Companies and Workers on Trade?](#), National Foreign Trade Council, October 16, 2023
- [AI Regulation is Coming- What is the Likely Outcome?](#), Center for Strategic & International Studies, October 10, 2023
- [President Biden's Worker-Centered Trade Policy: A Conversation With Ambassador Katherine Tai](#), event at Center for American Progress, October 10, 2023
- [US Warns EU's Landmark AI Policy Will Only Benefit Big Tech](#), *Bloomberg*, October 6, 2023 [Paywall]



### [Legislative Developments]

- A bipartisan pair of Senators re-introduced the “True Reciprocity Act” to demand a policy response for the “substantial imbalance” in U.S.-China relations in “diplomacy, trade, media and non-governmental organization activity.”

### [Hearings and Statements]

- Following reports of U.S. venture capital firms separating their main entity from their Chinese operations, the bipartisan leaders of the House China Committee requested more information to investigate the know-how transfers and capital flows that may result from the split.
- House Oversight and Accountability Committee Chair James Comer openly expressed concerns for the “lack of transparency” from the Office of the U.S. Trade Representative (USTR) in the Indo-Pacific Economic Framework (IPEF) negotiations as well as the “unwarranted influence” of the Federal Trade Commission, and requested answers and document disclosure from USTR.
- In an open letter, Senators Todd Young and Tom Carper called on USTR to set international “ground rules” for the global digital economy and “take immediate action” to establish “ambitious and binding obligations.”
- Following reports that USTR had withdrawn support for data localization and source code rules at the World Trade Organization’s e-commerce negotiations, bipartisan leaders of the Senate Finance Committee criticized the move and argued that USTR had failed to sufficiently consult Congress before making its decision.

### [Expanded Reading]

- [Crapo and Colleagues Condemn Biden Administration’s Decision to Cede U.S. Digital Leadership to China](#), Office of Senator Mike Crapo, October 26, 2023
- [Wyden Statement on Ambassador Tai’s Decision to Abandon Digital Trade Leadership to China at WTO](#), United States Senate Committee on Finance, October 25, 2023
- [Sullivan, Van Hollen Seek to Establish Reciprocity in U.S.-China Relationship](#), Office of Senator Dan Sullivan, October 24, 2023
- [Gallagher, Krishnamoorthi Probe Sequoia’s PRC High-Tech Investments, Examine Implications of Announced Split](#), The Select Committee on the CCP, October 18, 2023
- [Young, Carper Urge U.S. Trade Representative to Set the Ground Rules for the Digital Economy](#), Office of Senator Todd Young, October 16, 2023
- [Comer Probes Lack of Transparency from USTR in Indo-Pacific Trade Negotiations](#), House Committee on Oversight and Accountability, October 12, 2023

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## What's Been Happening

**1 — Push for Multilateral Trade Cooperation at APEC with Focus on Innovation, Inclusion and Resilience — 1****[In One Sentence]**

- The United States hosted the seventh in-person negotiating round for the Indo-Pacific Economic Framework (IPEF) from November 5-12 in San Francisco, California.
- IPEF members thereafter held a ministerial meeting on November 13-14, directly after the negotiating round.
- The Asia-Pacific Economic Cooperation (APEC) held its final 2023 meetings from November 11-17, with a ministerial meeting held on November 14 and the leaders' plenary session on November 16-17.
- APEC leaders capped their meeting by endorsing the *Golden Gate Declaration* which memorializes the efforts of member state economies' on their sustainability and inclusion objectives.
- IPEF member states released their own leaders' statement which noted that negotiations on the clean economy and fair economy pillars had been substantially concluded.
- U.S. trade officials stressed that IPEF and APEC are “two distinct initiatives” although some countries “have chosen to take advantage” of the fact that a number of officials who work on both APEC and IPEF are simultaneously in San Francisco.
- Meanwhile, a number of U.S. lawmakers, agencies and businesses continued to express concerns about the “change” of the “U.S. stance on digital policy,” following USTR's earlier move to revoke support for data and source code provisions at the World Trade Organization's e-commerce talks.

**[Mark the Essentials]**

- The APEC leaders' *Golden Gate Declaration* keeps alive the commitment to advance economic integration through “the work on the Free Trade Area of the Asia-Pacific [FTAAP] agenda”, although few believe the U.S. has much interest any longer in that FTAAP agenda.
- IPEF ministers failed to close out negotiations on the trade pillar in San Francisco and the outlook on this front is uncertain. However a ministerial-level IPEF Council was established and is set to meet annually starting in 2024, with leaders' meetings—presuming President Biden secures reelection—slated to be held every two years.

- In a public statement, the co-chairs of the House Digital Trade Caucus—a bipartisan pair—criticized USTR’s “unilateral” decision to “abandon important, longstanding, and bipartisan U.S. digital trade priorities at the WTO.” The statement adds to earlier criticism by the Senate Finance Committee.
- Meanwhile, more than 40 major business groups have jointly signed an open letter to the Biden administration to express their “profound concern and disappointment” and urged the Biden administration to reverse USTR’s “harmful decision” to withdraw support for certain proposed data provisions at the WTO.
- Shortly after USTR’s decision at the WTO, trade ministers from the G7 countries reaffirmed “the importance of facilitating Data Free Flow with Trust” and reiterated support for “open digital markets” and “opposition to digital protectionism.” The ministers also affirmed “the need to establish a set of high-standard rules to govern global digital trade.”

### **[Keeping an Eye On...]**

- When the Biden administration jumped the queue and won the right to chair the 21-member APEC framework in 2023—twelve years after the Obama Administration had done so in 2011—it expected to glide into the presidential election campaign year with a trade policy victory to tout. Instead, the administration has ended the APEC presidency with some egg on its face. The hosting of APEC in 2023 was never meant to be about APEC; rather, the APEC platform was sought to be commandeered to push through the Indo-Pacific Economic Framework (IPEF) agreement which excluded China—much like the Obama Administration had sought to push forward the Trans-Pacific Partnership (TPP) negotiations at the time. The TPP negotiations did in fact make important progress during the United States’ 2011 APEC hosting year. By contrast, the trade pillar of the IPEF negotiations—the only materially significant pillar of IPEF’s four pillars—has descended into a farce, with little expected by way of useful results in 2024. From the get-go, the trade pillar of IPEF was a shambles. It made no aspiration to achieve the fundamental premise of a trade agreement (i.e., market liberalization based on reciprocal market access). Yet, USTR Katherine Tai somehow appears to have thought that other IPEF member states would sign on to U.S.-dictated enforceable labor standard provisions for nothing in exchange. The administration chose to disregard Congress’ prerogative “to regulate commerce with foreign nations” by using the ‘sole executive agreement’ mechanism to finalize IPEF, and in the process let it effectively be known to participating members that it was shooting for a low-quality product that would not be accountable to Congress’ more demanding ratification-related standards. And despite an initial haste to preempt domestic rulemaking on digital policy, the administration ended up having to submit to the immense regulatory churn underway in the sector and pull its digital trade text from the broader negotiations. From anti-monopoly protections to privacy and data protections, fintech-related financial stability risk management, review of liability protection for intermediary service providers, to the development of rules regarding the structure, use, and impacts of AI applications and their underlying algorithms, digital policy regulation domestically and rules to regulate its orderly flow internationally remains a work in progress. In the event, no forward movement was made on market liberalization, little progress was made on labor standards in the trade text, and there is nothing to show on the digital trade front. San Francisco was the venue where delegates from 50 countries had drafted the Charter of the United Nations over fifty-one days of debate and negotiation in 1945. Fast-forward to APEC/IPEF 2023, San Francisco unfortunately may yet come to be remembered as the place where the United States, after a year of flailing and failing, ceded its trade policy leadership at a pivotal moment in the history of the Asia-Pacific’s international economic diplomacy.

### **[Expanded Reading]**

- [2023 APEC Leaders’ Golden Gate Declaration](#), The White House, November 17, 2023



- [U.S. 2023 APEC Outcomes](#), U.S. Department of State, November 17, 2023
- [Leaders' Statement on Indo-Pacific Economic Framework for Prosperity](#), The White House, November 16, 2023
- [APEC Summit 2023: Here's What to Know](#), U.S. Chamber of Commerce, November 15, 2023
- [Asia-Pacific Economic Cooperation \(APEC\) Economic Leaders' Week Kicks-Off in San Francisco](#), U.S. Department of State, November 13, 2023
- [USCIB Co-Signs Letter Condemning Administration Decision to Withdraw Support for Cross-Border Data Flow Proposals at WTO](#), United States Council for International Business, November 13, 2023
- [G7 Trade Ministers' Meeting in OSAKA-SAKAI](#), Ministry of Foreign Affairs of Japan, last updated November 9, 2023
- [U.S. Chamber and Other Associations Letter to NSC/NEC on Digital Trade](#), U.S. Chamber of Commerce, November 7, 2023
- [2023 Asia-Pacific Economic Cooperation \(APEC\) Leaders' Week \(FPC Briefing\)](#), U.S. Department of State, November 6, 2023
- [LaHood, DelBene Statement on USTR Decision to Abandon Digital Trade Leadership at the WTO](#), Office of Rep. Darin LaHood, October 26, 2023

## 2 — Autos and AI, the New Trade and Tech Chessboard — 2

### [In One Sentence]

- Speaking at an auto plant in Illinois, U.S. President Joe Biden accused China of attempting to “dominate the electric-vehicle market by using unfair trade practices.”
- In an effort to ensure U.S. leadership on artificial intelligence (AI), President Biden signed an executive order to establish new standards for AI safety as well as relevant privacy and rights concerns.
- President Biden also committed to “continue to work closely with allies and partners” on AI standards, including through the United Nations and the G7.
- During their meeting in Woodside, California on November 15, U.S. President Joe Biden and Chinese President Xi Jinping affirmed the need to improve AI safety through “U.S.-China government talks.”
- The U.S. trade deficit increased slightly in September, largely due to import growth in auto parts and engines.

### [Mark the Essentials]

- While agreeing to establish government-to-government talks on AI, President Xi Jinping also complained about U.S. attempts to curb or suppress China’s “right to development” and called for the U.S.’ unilateral sanctions to be lifted and a “fair and nondiscriminatory environment [provided] for Chinese businesses.”
- According to a Carnegie Endowment for International Peace expert, both the United States and China have begun to acknowledge the need for some level of coordination on artificial intelligence governance, especially to tackle common safety challenges. Nevertheless, competition over AI capacity and technology development will likely persist, as well as the fight for control and influence over standard setting.
- At the recent AI Safety Summit hosted by the UK at Bletchley Park, once the top-secret home of World War II codebreakers, more than 20 countries—including the United States, China and the European Union—jointly acknowledged the “enormous global opportunities” and “significant risks” that AI technology poses. The parties “resolve[d] to support an internationally inclusive network of scientific research on frontier AI safety” and to “sustain an inclusive global dialogue.”
- Meanwhile, the United States and the European Union are seeking public input and suggestions to develop a “list of 65 key AI terms essential to understanding risk-based approaches to AI, along with their EU and U.S. interpretations and shared EU-U.S. definitions.” The move derives from the US-EU Trade and Technology

Council's (TTC) effort on establishing a "Joint Roadmap on Evaluation and Measurement Tools for Trustworthy AI and Risk Management."

- Ahead of President Biden's accusation against China's unfair practices in the EV sector, a bipartisan group of U.S. lawmakers called on U.S. Trade Representative Katherine Tai to impose tariffs on China's automobile imports to prevent U.S. "dependency" and the consequent "hollowing out" of the American auto industry.

### [Keeping an Eye On...]

- On November 15, President Joe Biden and President Xi Jinping held a successful summit meeting at the Filoli Estate, a grand country house and garden set on rolling green grounds near the California coast. The meeting was notable on two counts. First, it consolidated the diplomatic process that was initiated by the two leaders in Bali in November 2022 on the sidelines of the G20 Leaders' Summit. This consolidation of ties will come in handy in 2024 to troubleshoot irritants that will almost certainly crop up in what is expected to be a raucous U.S. election year. The consolidation of ties could even serve as a useful jumping-off point to construct a durable architecture of candid but constructive coexistence in the mid-2020s, should President Biden manage to secure reelection. Second, the meeting enabled Washington and Beijing to harvest a number of low-hanging 'deliverables'; namely, on fentanyl precursors, reopening mil-mil communication channels, climate change, and AI. The agreement to establish government-to-government talks on AI, as with the case of the electric vehicles (EVs) sector, speaks to the multilayered complexity of U.S.-China ties. Washington has extensively utilized its strategic trade and technology controls to stanch the flow of high-performance chips to China and stifle technological progress within its AI ecosystem. At the same time, both countries see merit in a bilateral conversation that seeks to limit harms originating from frontier AI systems in areas such as nuclear command and control, so as to ensure that machine-determined algorithms are not allowed to dictate critical decision making. Washington has aggressively sought to decouple EV supply chains from China and labeled it as a "foreign entity of concern" in the context of enjoyment of Inflation Reduction Act (IRA) tax credits. At the same time, the climate envoys of the United States and China issued a joint statement—a notable rarity these days in U.S.-China relations—on climate change, which will enable the two countries to pull together on the road to COP28 and beyond. Electrification of the transportation sector, with EV's at the forefront, is key after all to the green transition. Going forward, it is just as likely that Washington and Beijing will be locked in rivalry and cooperation in other fields too. The world's number one and number two economies are fiercely competitive, yet also too intertwined to be disjointed into neat exclusionary blocs. And at the same time, they are propelled by force of sheer political self-interest to fraternize on the big transnational questions of the day.

### [Expanded Reading]

- [President Xi Jinping Meets with U.S. President Joe Biden](#), Ministry of Foreign Affairs, People's Republic of China, November 16, 2023
- [Readout of President Joe Biden's Meeting with President Xi Jinping of the People's Republic of China](#), The White House, November 15, 2023
- [Remarks by President Biden on Delivering for Working Families and Creating Good-Paying Union Jobs | Belvidere IL](#), The White House, November 9, 2023
- [US lawmakers want Biden to hike tariffs on Chinese-made vehicles](#), *Reuters*, November 8, 2023
- [U.S. International Trade in Goods and Services, September 2023](#), U.S. Bureau of Economic Analysis, November 7, 2023
- [Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence](#), The White House, October 30, 2023
- [Input on the First Edition of TTC WG1 EU-U.S. Terminology and Taxonomy for Artificial Intelligence](#), European Commission, October 30, 2023



### [Legislative Developments]

- The House Ways and Means Committee advanced a bill that proposes to create a new Global Trade Specialist position at Customs and Border Protection to “stop foreign bad actors from breaking America’s trade laws and harming American workers.”
- A bipartisan pair of Senators proposed a bill to increase transparency in trade data and tighten trade law enforcement by requiring aircraft, truck, and rail shippers of U.S. imports to publicly disclose aggregate data on shipper, destination, type and volume of cargo, etc.
- The Senate voted to approve a resolution that proposes to overturn the Biden administration’s temporary waiver of certain “Buy America” requirements for materials used in electric vehicle chargers, passing the bill to the House. Soonafter, the Biden administration announced that it will veto the resolution should it pass both chambers of Congress.

### [Hearings and Statements]

- In a letter to the Biden administration, ten progressive lawmakers led by Senator Elizabeth Warren and Rep. Jan Schakowsky expressed “appreciation” for “suspending negotiations on aspects of the IPEF digital text that can be used to frustrate privacy, AI, civil rights and liberties, anti-monopoly, gig worker and other digital safeguards.”
- The New Democrat Coalition, a center-left coalition of “pragmatic House Democrats,” urged the Biden administration to return to reciprocal bilateral and regional trade agreements, lower barriers to trade and include market access provisions in IPEF negotiations.
- Senate Finance Committee Chair Ron Wyden and ranking member Mike Crapo requested three federal agencies—including the Customs and Border Protection—to provide information on their use of artificial intelligence. The Senators acknowledged the “powerful potential” of AI to “speed legitimate trade” and efficiently “catch trade cheats,” but warned that the agencies must also establish safeguards to manage risks posed by AI.

### [Expanded Reading]

- [New Dem Trade Task Force Leads Effort to Grow Partnership with the Administration on a Strong, Proactive Trade Agenda](#), New Democrat Coalition, November 9, 2023
- [Wyden, Crapo Press Federal Agencies on Use of Artificial Intelligence](#), United States Senate Committee on Finance, November 9, 2023
- [US Senate votes to reject 'Buy America' EV charging waiver](#), Reuters, November 8, 2023
- [Statement of Administration Policy, S.J. Res. 38](#), Executive Office of the President, November 8, 2023
- [Schakowsky, Warren Lead 10 Lawmakers Commending Biden administration for Countering Big Tech Influence in Trade Negotiations](#), Office of Rep. Jan Schakowsky, November 7, 2023
- [Ways and Means Advances Real Solutions to Real Problems Faced by Real Americans](#), House Ways and Means Committee, November 3, 2023
- [Whitehouse, Cassidy Introduce Bipartisan Legislation To Increase Transparency Of Shipping Manifests](#), Office of Senator Sheldon Whitehouse, November 2, 2023

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## What's Been Happening

### 1 — U.S.-China Division Unfolds as APEC Commits to Sustainability and Green Trade Liberalization — 1

#### [In One Sentence]

- U.S. President Joe Biden and Chinese President Xi Jinping held a summit meeting in Woodside, California.
- During the meeting, President Biden “emphasized” the competitive nature of the bilateral relationship and raised continued concerns about “the PRC’s unfair trade policies, non-market economic practices and punitive actions against U.S. firms.”
- President Xi warned against attempts to “stiffl[e] China’s technological progress” and asked the U.S. to lift its “unilateral sanctions so as to provide an equal, fair and nondiscriminatory environment for Chinese businesses.”
- Meanwhile, members of the Asia-Pacific Economic Cooperation (APEC) framework committed to increase focus on sustainability, resilience and inclusiveness regarding trade and investment in the region.
- APEC’s business advisory group had previously recommended members to liberalize trade in environmental goods and services to foster “just and affordable transition” towards sustainability and the green economy.
- Shortly after the Xi-Biden meeting, China’s General Administration of Customs lifted restrictions on poultry imports from seven U.S. states, and China’s anti-trust regulator (SAMR) approved the Broadcom-VMware deal with minor conditionalities attached.
- The U.S. Commerce Department announced plans to invest US\$3 billion to expand U.S. advanced packaging capacity as part of the implementation process of the CHIPS and Science Act.
- In its annual report to Congress, the U.S.-China Economic and Security Review Commission recommended a single export licensing system to tighten enforcement of export controls related to China.
- In the inaugural meeting of the cabinet-level Council on Supply Chain Resilience, the Biden administration committed to strengthen U.S. supply chains on critical technology and goods.

#### [Mark the Essentials]

- According to President Biden, China’s unfair trade policies and non-market practices harmed American workers and families, and the United States will “continue to take necessary actions to prevent advanced U.S. technologies from being used to undermine our own national security.” Meanwhile, President Xi argued that

the export control, investment screening and sanctions “seriously hurt China’s legitimate interests” and “is nothing but a move to contain China’s high-quality development and deprive the Chinese people of their right to development.”

- In a declaration concerning “principles on integrating inclusivity and sustainability into trade and investment policy,” APEC members upheld “policies that support a free, open, fair, non-discriminatory, transparent and predictable trade and investment environment” as well as an increase in focus on trade and investment policies that advance sustainability, resilience and inclusivity. The declaration emphasized that APEC is a “voluntary, non-binding and consensus-based organization” and reflects the position of all APEC members, although the United States previously said China was the only economy that did not support the principles.
- Among concerns regarding Beijing’s “unfair trade practices,” the Biden administration specifically highlighted the electric vehicle (EV) market prior to the Xi-Biden meeting. President Biden argued that the manufacturing offshore had cost the United States “tens of thousands of auto jobs” and vowed to address the challenge and “outcompete China and everyone else in the world.”
- Following China’s announcement that producers have to acquire permits before exporting graphite out of China, representatives of North America’s automotive industry told reporters that restrictions on graphite could impact the manufacturing of EV batteries. According to the industry, the restrictions could be part of China’s attempt to counter U.S. preferential policies that encourage American, European, Japanese, and South Korean companies to ‘friend-shore’ to North America.

### **[Keeping an Eye On...]**

- On November 15, President Joe Biden and President Xi Jinping held a successful summit meeting at the Filoli Estate, 30 miles south of San Francisco. The meeting threw up a number of lower-level ‘deliverables.’ The two sides agreed to: (1) resume their military-to-military dialogue, both at the ministers’ level as well as across their institutionalized defense dialogue mechanisms; (2) jointly tackle the fentanyl crisis, with Beijing pledging to crack down on shipments of fentanyl precursors chemicals to North America in exchange for Washington delisting the Ministry of Public Security’s Institute of Forensic Science from its entity list; (3) convene a U.S.-China working group to address the dangers of AI; and (4) increase direct flights as well as people-to-people contacts between the two countries. A day earlier, the two sides released a joint statement on enhancing cooperation on climate change, including at the on-going COP28 meeting. The breakout of mutual goodwill should not be exaggerated; ‘extreme competition’ and ‘selective decoupling’ remains the ‘new normal’ in ties. Just as an example, on December 1, the Treasury Department is expected to issue tax credit rules that strip out Chinese content to the maximum practicable extent from U.S. electric vehicle (EV) supply chains; China being designated as a “foreign entity of concern.” Just as promptly, on December 1, China’s controls on exports of several categories of natural and synthetic graphite, key materials used in the production of EV batteries and fuel cells, are due to kick-in. High-purity natural and synthetic graphite has vital uses in other clean-tech industries too, and the controls resemble similar curbs imposed in August on the export of germanium and gallium, two minerals critical to the production of semiconductors. The thinking, presumably, at the Chinese end is that if these minerals and materials are to be made available to non-Chinese players in the industry, those players will either have to set up production in China to source these inputs or plead with their national governments to allow Chinese-invested companies to set up production facilities on their home soil. While this strategy will cut no ice in Washington, it could sway outbound and inbound investment decision-making in European capitals. The contest to reshore and ‘friendshore’ and thereby re-wire supply chains has just begun, and there are many more chapters yet to be written.

## [Expanded Reading]

- [FACT SHEET: President Biden Announces New Actions to Strengthen America’s Supply Chains, Lower Costs for Families, and Secure Key Sectors](#), The White House, November 27, 2023
- [China lifts HPAI restrictions for seven US states - GAIN](#), *The Poultry Site*, November 27, 2023
- [CHIPS for America Releases Vision for Approximately \\$3 Billion National Advanced Packaging Manufacturing Program](#), National Institute of Standards and Technology, November 20, 2023
- [San Francisco Principles on Integrating Inclusivity and Sustainability into Trade and Investment Policy](#), Asia-Pacific Economic Cooperation, November 17, 2023
- [President Xi Jinping Meets with U.S. President Joe Biden](#), Ministry of Foreign Affairs of the People’s Republic of China, November 16, 2023
- [Readout of President Joe Biden’s Meeting with President Xi Jinping of the People’s Republic of China](#), The White House, November 15, 2023
- [Business Leaders: Embrace Collaboration to Tackle Global Challenges in Equity, Sustainability and Trade](#), APEC Business Advisory Council, November 14, 2023
- [Remarks by President Biden on Delivering for Working Families and Creating Good-Paying Union Jobs | Belvidere IL](#), The White House, November 9, 2023

## 2 — IPEF Still Far from Completion While Uncertainties Remain— 2

### [In One Sentence]

- Members of the Indo-Pacific Economic Framework (IPEF) signed the IPEF Supply Chain Agreement (Pillar II) and announced the “substantial conclusion” of negotiations on IPEF’s Pillar III (Clean Economy) and Pillar IV (Fair Economy).
- Meanwhile, the White House acknowledged that more work is needed on Pillar I (Trade), while the Office of the U.S. Trade Representative (USTR) reiterated its commitment to “a mutually beneficial Trade Pillar outcome” that advances workers’ rights, “builds trust in the digital economy,” and benefits U.S. agricultural producers.
- IPEF members also intended to spur private-sector investment in green technologies and clean energy, partly through the establishment of an annual IPEF Clean Economy Investor Forum.
- The newly signed Agreement on the Indo-Pacific Economic Framework for Prosperity will create an IPEF Council to coordinate the collective operation of all four IPEF pillars, and a Joint Commission to monitor works under Pillars II-IV.
- In a separate statement by the White House, leaders of IPEF members also announced plans to launch a “critical minerals dialogue” to enhance regional economic competitiveness.
- The United States and Indonesia earlier elevated their relationship to “the highest possible level of cooperation” and acknowledged opportunities such as to achieving “tangible progress” on critical minerals, digital connectivity and investment.

### [Mark the Essentials]

- While the United States and other IPEF members remain committed and optimistic about IPEF’s Pillar I on trade, negotiators reportedly believe that (much) more time would be needed to resolve differences on digital trade and labor issues, and that negotiations might be pushed into 2024 and perhaps further beyond. Meanwhile, a White House official told reporters that more efforts and possible progress might be expected “in the weeks and months ahead.”
- The USTR previously withdrew support for an e-commerce proposal addressing source code, the free flow of cross-border data and data localization requirements at the World Trade Organization (WTO), leading to a strong backlash from lawmakers, businesses and stakeholders. In defending the move, Deputy U.S. Trade

Representative and U.S. ambassador to the WTO María Pagán argued that the United States needed time to “rethink” its approach given that it is taking a “different tack on digital issues” during IPEF negotiations.

- Criticizing the USTR’s decision to withdraw support for the WTO data and source code proposal, the U.S. Chamber of Commerce argued that the U.S. digital policy was “a matter of U.S. law” and that USTR’s “change in U.S. policy” was not “well-vetted.” The chamber also questioned whether the administration was “transparent” enough about its policy and whether it remains committed to pursue “high-standard digital trade rules” in forums such as IPEF.
- U.S. officials reportedly revealed that significant progress has been made regarding IPEF Pillar I’s provisions on biotech and sustainable agriculture, and that some issues regarding artificial intelligence were resolved.
- Although the White House stated that it has consulted, and will continue to consult, “extensively” with Congress and stakeholders, House and Senate leadership have repeatedly called on the administration to increase consultation in advance and to improve IPEF negotiation transparency. The Biden administration has maintained that IPEF does not need congressional ratification as long as it does not contain market access and trade liberalization provisions.

### [Keeping an Eye On...]

- For as long as the majority of the Asia-Pacific region’s economies favor rules-bound trade and economic liberalization, the Asia-Pacific Economic Cooperation (APEC) framework will remain a prominent feature of the region’s landscape. The institutional edifice envisaged by APEC’s intellectual architects was crafted in the image of the Asia-Pacific region and its colors tied intentionally to the mast of trade multilateralism, to cater to this need for regional trade and investment liberalization. APEC is sensitive to the region’s economic, cultural and ideological diversity and does not seek to outshine other regional forums or lend a platform to the largest participants to dominate proceedings. It seeks, rather, to concertedly push forward with step-by-step, pragmatic and sustained cooperation that complements the open and non-discriminatory multilateral trading system. The same cannot be said about the fly-by-night scheme conjured by the Biden administration, known as the Indo-Pacific Economic Framework for Prosperity (IPEF). It pays little attention to the plurality of social systems in the Asia-Pacific, it does not complement the region’s existing trade liberalization initiatives—the RCEP and the CPTPP, and has intentionally been crafted to discriminate against a regional player, China, particularly insofar as its supply chain pillar is concerned. That the negotiations on its trade pillar are collapsing in a heap, in part due to the thin gruel on offer in terms of market access incentives, should not distract from the fact that IPEF was simply envisioned in the first place as a placeholder to placate the region until the U.S. political establishment could get its story right on trade. Indeed, it might be quite a while before Washington gets its story right on trade, given the drift towards protectionism in both parties. If Donald Trump does return to office in 2025 and tosses the IPEF agreements and negotiations into the dustbin, as he has vowed to do, nobody will be any poorer off (aside from a whole lot of wasted bureaucratic time). In the meantime, APEC will keep humming on. And the United States’ participation within that framework will anchor its trade and investment policy presence in the region.

### [Expanded Reading]

- [What’s at Stake for the United States at the 13th WTO Ministerial?](#), event by the Center for Strategic & International Studies, November 20, 2023
- [Joint Statement From Indo-Pacific Economic Framework For Prosperity Partner Nations](#), U.S. Department of Commerce, November 16, 2023
- [Leaders’ Statement on Indo-Pacific Economic Framework for Prosperity](#), The White House, November 16, 2023

- [U.S. Press Statement on Indo-Pacific Economic Framework Pillar I](#), Office of the United States Trade Representative, November 16, 2023
- [Remarks by President Biden at the APEC CEO Summit | San Francisco, CA](#), The White House, November 16, 2023
- [On-the-Record Press Call by NSC Coordinator for Strategic Communications John Kirby and Deputy National Security Advisor for International Economics Mike Pyle to Preview President Biden's Day Ahead at APEC](#), The White House, November 16, 2023
- [Joint Statement of the Leaders of the United States and the Republic of Indonesia: Elevating Relations to a Comprehensive Strategic Partnership](#), Ministry of Foreign Affairs of the Republic of Indonesia, November 14, 2023

## On the Hill



### [Legislative Developments]

- House Foreign Affairs Committee Chairman Michael McCaul and Ranking Member Gregory W. Meeks introduced a bill to “build on” the Biden administration’s Executive Order on outbound investment controls and enhance restrictions and transparency on outbound investment to China.
- A bipartisan group of nine Senators reintroduced a resolution to call for the Senate ratification of the United Nations Convention on the Law of the Sea (UNCLOS) to “counter countries like Russia and China that continue to exploit our absence from key ocean governance diplomatic forums.”
- The House Financial Committee unanimously advanced the Iran-China Energy Sanctions Act of 2023 to sanction financial accounts enabling Chinese purchases of Iranian oil.

### [Hearings and Statements]

- Senators Sherrod Brown and Bob Casey cautioned the Biden administration against reducing Section 301 and Section 232 tariffs on Chinese goods, arguing that the tariffs serve as important means to combat “anti-competitive behaviors by China” and protect American steel and aluminum producers.
- Addressing the State Department’s ambassador at large for cyberspace and digital policy Nathaniel Fick, Senator Todd Young warned that failure to develop international rules on digital trade and data flow may “jeopardize” AI collaboration and cooperation between the United States and allies.
- A bipartisan group of Senators, most of which were from the Senate Finance Committee, called on U.S. Customs and Border Protection to step up oversight and enforcement regarding forced labor laws concerning Chinese companies.

### [Expanded Reading]

- [Brown, Casey Urge Biden Administration To Keep Tariffs In Place On Chinese Imports](#), Office of Senator Sherrod Brown, November 21, 2023
- [Van Hollen Joins Hirono, Murkowski, Kaine in Reintroducing Resolution Calling on U.S. Senate to Ratify UN Convention on the Law of the Sea](#), Office of Senator Chris Van Hollen, November 16, 2023
- [Gottheimer & Lawler’s Bipartisan Iran-China Energy Sanctions Act Unanimously Passes House Financial Services Committee](#), Office of Rep. Josh Gottheimer, November 15, 2023
- [U.S. Leadership On Artificial Intelligence In An Era Of Strategic Competition](#), hearing in front of the Senate Foreign Relations Committee, November 15, 2023
- [Bipartisan Senators Urge CBP to Stop Imports of Clothing Made with Forced Labor By Ramping Up Oversight and Enforcement of Supply Chains](#), United States Senate Committee on Finance, November 15, 2023
- [McCaul, Meeks Introduce Bill to Restrict Outbound Investment](#), House Foreign Affairs Committee, November 13, 2023



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## What's Been Happening

**1 — U.S. Fueling EV Competition and Supply Chain Resilience vis-a-vis China — 1****[In One Sentence]**

- The U.S. Department of Treasury introduced rulemaking regarding the eligibility for tax credits under the Inflation Reduction Act's (IRA) electric vehicles (EVs) provisions, with an eye to the sourcing of battery components (starting 2024) or critical minerals (starting 2025) produced by Chinese firms and other "foreign entities of concern."
- The Biden administration has long expressed concerns over China's presence in EV supply chains, and has repeatedly emphasized the importance of reshoring EV manufacturing and relevant supply chain resilience in batteries and critical minerals.
- Shortly after, a group of Republican Senators introduced a bill to prohibit automakers that receive IRA tax credits from offshoring any of their production over the next 10 years.
- The U.S. Department of Commerce announced that it recently renewed the charter for the Advisory Committee on Supply Chain Competitiveness and that, starting November 2023, the advisory committee has begun to provide advice on a "comprehensive policy approach" to "improve the competitiveness of U.S. supply chains for goods and services in the domestic and global economy."

**[Mark the Essentials]**

- As per the U.S. Treasury's guidance, EVs will not be eligible for certain IRA tax credits unless a specific percentage of batteries are manufactured or assembled in North America and unless a specific percentage of critical minerals used are processed in the U.S. or in "a country with which the United States has a free trade agreement." The battery requirement will gradually increase from 50% in 2023 to 100% in 2029, while the critical minerals requirement will increase from 40% in 2023 to 80% in 2027.
- In parallel to Treasury's guidance, the Department of Energy issued its proposed definition of a 'foreign entity of concern', insofar as rules related to critical minerals and battery components are concerned.
- At the inaugural meeting of the Biden administration's cabinet-level Council on Supply Chain Resilience, President Biden announced a number of actions to "strengthen America's supply chains," broadly covering "critical supply chains" on energy, batteries, electric vehicles, agriculture, and pharmaceuticals as well as "whole-of-government" efforts on logistics, transportation and relevant infrastructure and info-collection

frameworks. The announcement also highlighted U.S. engagement with allies and partners on international supply chains.

- Earlier, the Biden administration’s Export Council—a cabinet-level interagency panel—recommended the President to leverage institutions and platforms such as the Indo-Pacific Economic Framework, the U.S. Export-Import Bank and the World Trade Organization to bolster U.S. exports of batteries, clean energy and other green technologies and environmental products. The council also highlighted the importance of “public-private partnerships” and proposed to broaden the definition of “environmental products and services” that would receive U.S. government credits and “policy incentives.”
- Some analysts have separately argued that the United States’ current export control framework continues to have some loopholes on restricting China’s access to key technologies—including advanced semiconductor chips and manufacturing equipment as well as equipment integral to artificial intelligence technologies. According to the analysts, the problem lies in the complexity of the rules as well as the constant difficulties of enforcement and monitoring with a limited budget.

### [Keeping an Eye On...]

- Call it a tale of two ‘foreign entity of concern’ (FEOC) rules, both supply chain decoupling-related. On December 1, the U.S. Energy Department released its proposed ‘foreign entity of concern’ guidance with regard to critical minerals and battery components, as part of rulemaking for the Inflation Reduction Act’s electric vehicle (EV) subsidy provisions. The interpretation was curiously lax, relatively speaking. As per the proposed rule, an American company will be able to enter into a contractual relationship, including an IP licensing relationship, with a ‘foreign entity of concern’ (read: Chinese entity) so long as the ‘foreign entity of concern’ does not exert ‘effective control’ over the U.S. licensee or principal’s production of particular critical minerals, battery components or battery materials. The rule lists out a number of rights including unhindered access and use of data critical to production which, if reserved expressly in favor of the U.S. licensee or principal, would be deemed to not confer ‘effective control’ by the Chinese entity. The provision is a bow to the reality of China’s dominant position within EV critical minerals and battery components supply chains. As written, Ford Motors should handily be able now to contractually license Chinese battery giant CATL’s technology for its EV plant in Michigan (an arrangement that has drawn anger on Capitol Hill) and at the same time maintain access to IRA subsidy money. Two and a half months earlier, by contrast, the Commerce Department issued its final rule to prevent the improper use of CHIPS Act funding that could directly or indirectly benefit foreign countries as well as foreign entities of concern (the final rule more-or-less tracks the proposed rule, released in March 2023, with minor modifications). As per the rule’s guardrails, U.S. and foreign (Japanese, Korean and Taiwanese) chip companies that receive CHIPS Act subsidies are prohibited from engaging in ‘significant transactions’ involving the ‘material expansion’ of their semiconductor facilities in ‘foreign countries of concern’ (China) for ten years as well as are prohibited from any meaningful joint research or technology licensing arrangements with ‘foreign entities of concern’ (Chinese entities). Reflecting the United States’ overwhelming upstream dominance within semiconductor supply chains, the bar for ‘significant transactions’ (valued at US\$100,000) and ‘material expansion’ (by anything more than 5% for advanced chips and 10% for legacy chips) has deliberately been kept low, and meaningful technology licensing barred altogether. So, there you have it: two ‘foreign entity of concern’ (FEOC) rules, two generally differing interpretations, but with one element in common—both seek to decouple supply chain dependencies from China or Chinese entities with a discretionary toolkit of sticks and carrots, but which pay attention finely to the workings of the market mechanism and considerations of leverage and power therein.

## [Expanded Reading]

- [Rubio, Colleagues Introduce Bill Protecting American Auto Jobs](#), Office of Senator Marco Rubio, December 5, 2023
- [Advisory Committee on Supply Chain Competitiveness Renewal](#), U.S. Department of Commerce, December 4, 2023
- [Treasury Releases Proposed Guidance to Continue U.S. Manufacturing Boom in Batteries and Clean Vehicles, Strengthen Energy Security](#), U.S. Department of the Treasury, December 1, 2023
- [Department of Energy Releases Proposed Interpretive Guidance on Foreign Entity of Concern for Public Comment](#), U.S. Department of Energy, December 1, 2023
- [Biden's EV Subsidy Rules Leave Room for Chinese Suppliers](#), *The Wall Street Journal*, December 1, 2023 [Paywall]
- [US moves to choke China's role in electric vehicle supply chain](#), *Financial Times*, December 1, 2023 [Paywall]
- [Meeting of the President's Export Council Fall 2023](#), The White House, November 29, 2023 [Video]
- [FACT SHEET: President Biden Announces New Actions to Strengthen America's Supply Chains, Lower Costs for Families, and Secure Key Sectors](#), The White House, November 27, 2023
- [FACT SHEET: Biden-Harris Administration Announces New Private and Public Sector Investments for Affordable Electric Vehicles](#), The White House, April 17, 2023
- [Remarks by President Biden on the Electric Vehicle Manufacturing Boom in America](#), The White House, September 14, 2022

## 2 — The 24th China-EU Summit was Held in Beijing, To Mixed Results — 2

### [In One Sentence]

- At the 24th EU-China Summit in Beijing, European Council President Charles Michel and European Commission President Ursula von der Leyen met with Chinese President Xi Jinping and Premier Li Qiang during two separate sessions.
- During the meetings, both sides committed to dialogue and cooperation rather than confrontation and decoupling and committed to deepen cooperation on trade and economy, green development, artificial intelligence, intellectual property rights and supply chain partnerships.
- The Chinese side opposed “politicizing economic and trade issues or overstressing the concept of security,” while the EU side expressed concerns on the trade deficits and hoped to achieve a “more balanced economic relationship.”
- Meanwhile, the U.S.-EU talks on sustainable steel and aluminum remain stalled.
- EU officials note that the U.S. and EU have made “good progress” on negotiating a critical minerals agreement to help EU automakers secure certain EV tax credits under the U.S.’ Inflation Reduction Act.

### [Mark the Essentials]

- During the summit, Chinese President Xi Jinping said China saw EU as “a key partner for economic and trade cooperation, a preferred partner for scientific and technological cooperation” and called on the two sides to “leverage their complementary strengths in terms of market, capital and technology” to “upgrade traditional industries and foster emerging ones, explore new modes of cooperation, foster new areas of growth, and jointly improve industrial and supply chains.”
- The EU readout highlighted the EU’s 400 billion euro trade deficit with China, called for “a level playing field and reciprocity” and urged China to “take more concrete action to improve market access and the investment environment for EU investors and exporters.” The EU side also sought to address “critical dependencies in specific sectors, in full compliance with the World Trade Organization rules.”

- In a recent letter, nine leading U.S. advocacy groups “committed to industrial decarbonization” jointly called on the Biden administration to ensure that the U.S. and EU reach an agreement on sustainable steel and aluminum in 2023 and develop a “firm timeline for implementation” by the end of 2024. The groups expressed “deep concerns” following “recent reports” that note that the talks have “stalled.”
- Earlier, top European Commission trade official Valdis Dombrovskis said that the EU sees “no prospect” of agreeing on a sustainable steel and aluminum deal unless the U.S. commits to “permanently” remove tariffs on EU’s steel and aluminum exports. Divisions reportedly persist on a number of other key provisions of the deal, such as ways to address non-market excess capacity and decarbonization standards.

### [Keeping an Eye On...]

- European Commission President Ursula von der Leyen seems none too happy with the size of the European Union’s trade deficit with China or the lack of a ‘level playing field’ for EU businesses in China. During the 24<sup>th</sup> EU-China summit—the first in-person talks since 2019—she let that be known to President Xi Jinping. President von der Leyen cannot be faulted for her displeasure on the trade deficit front. In the time since the EU labeled China a “systemic rival” (as well as a “partner” and a “competitor”) in 2019, the value of goods imports from China, far from declining, has almost doubled. By contrast, the U.S.’ share of imports from China dropped from 21% to 16% cent during the same period (although the source of many of these ex-China imports has for the most part simply shifted to other Asia-Pacific economies). Imports of a range of Chinese industrial products in particular have grown noticeably, elbowing out domestic EU competitors in many cases rather than other foreign competitors. The extent of dependency on China for a number of critical raw materials also exceeds the 60% tipping point, judged by the Commission to be excessive. On the other hand, President von der Leyen can be (partly) faulted with regard to her complaint on the business environment and ‘level playing field’ front. In December 2020, the EU and China concluded in principle a Comprehensive Agreement on Investment (CAI) which contains high-standards rules on industrial subsidies and state-owned enterprises that addresses many of the longstanding ‘level playing field’ complaints of European businesses in China. A mere six months later, in the ensuing fracas over allegations of supposed ‘genocide’ in Xinjiang and tit-for-tat countermeasures by both sides, ratification of the agreement was frozen by the European Parliament. If it is indeed President von der Leyen’s case that Beijing must abide by a set of higher pro-market, level playing field industrial subsidies standards, then she bears a corresponding obligation, too, to first champion the case for unfreezing the CAI at home. It shouldn’t fall upon Beijing to have to buy the same horse twice from the Europeans. There is, after all, an agreed text that already memorializes both sides’ obligations in this regard and once ratified, Brussels could simply hold Beijing to these commitments. To be clear, this does not exempt Beijing from improving the fairness, transparency and predictability of its foreign investment regime. One would think that it is in its own interest to do so at a time when the macroeconomy continues to groan. As laid out in the State Council’s August 2023 *Opinions on Attracting and Optimizing Foreign Investment*, foreign companies must be provided fair access to procurement opportunities, stringent cross-border data flow rules for legitimate business purposes must be eased, foreign-invested enterprises’ IP protected, and fiscal and tax preferences as well as administrative licenses apportioned transparently and non-discriminatorily. The sooner provincial and local governments in China adhere to the State Council’s *Opinions*, the better off all sides will be.

## [Expanded Reading]

- [Chinese premier co-chairs 24th China-EU Summit with EU leaders](#), the State Council of the People's Republic of China, December 8, 2023
- [EU Considers Restarting WTO Case Against US Over Steel Tariffs](#), *Bloomberg*, December 8, 2023 [Paywall]
- [President Xi Jinping Meets European Council President Charles Michel and European Commission President Ursula von der Leyen](#), Ministry of Foreign Affairs of the People's Republic of China, December 7, 2023
- [Xi urges enhanced China-EU political mutual trust, dialogue, cooperation](#), *Xinhua*, December 7, 2023
- [EU-China summit, 7 December 2023](#), Council of the European Union, December 7, 2023
- [Advocacy Groups Tell Biden to Advance EU Deal on Sustainable Steel and Aluminum](#), Sierra Club, December 5, 2023

## On the Hill

### [Legislative Developments]

- A bipartisan pair of Senators introduced a bill to gather all revenues generated through antidumping and countervailing duties and use the funding to support communities impacted by “import competition.”
- A bipartisan pair of lawmakers proposed to establish within the Department of Commerce a program to “create a whole-of-government approach to mapping, monitoring, and proactively strengthening American supply chains” and to promoting reshoring.
- In recent remarks concerning the conferencing process of the National Defense Authorization Act (NDAA), Senate Majority Leader Chuck Schumer openly criticized “a number of House Republicans” for blocking the passage of NDAA’s provisions that help “rein in the Chinese government” on U.S. outbound investments in China, fentanyl, and U.S. farmland purchase.
- A bipartisan, bicameral group of lawmakers reintroduced a bill to restrict U.S. imports of commodities “originating from illegally deforested land.”

### [Hearings and Statements]

- A group of House Republicans, including House Foreign Affairs Committee Chairman Michael McCaul and House China Committee Chairman Mike Gallagher, called on the Department of Commerce to tighten U.S. export controls on China “before we agree to work with Secretary Raimondo to provide additional resources to the [Commerce Department’s] Bureau of Industry and Security.”
- The House Foreign Affairs Committee later released a review report of the BIS, criticizing BIS for prioritizing “business and commerce” over “national security” in granting export controls licenses and calling on BIS to “assume any militarily useful item transferred to China will be diverted to its military.”
- Senate Finance Committee Chair Ron Wyden said he met with top White House officials in early November to express his opposition to USTR’s decision to no longer support certain data localization and source code proposals at the WTO.

### [Expanded Reading]

- [McCaul Releases 90-Day Review Report of Commerce Department's BIS](#), House Foreign Affairs Committee, December 7, 2023
- [Resilient Communities Act Introduced to Assist Communities Injured by Unfair Trade](#), Wiley, December 7, 2023
- [Baldwin, Cassidy Introduce Bipartisan Bill to Support Communities Hurt by Chinese Trade Cheating](#), Office of Senator Tammy Baldwin, December 6, 2023
- [McCaul, Stefanik, Gallagher Call On Commerce to Strengthen Export Controls Before Congress Provides More Funding](#), House Foreign Affairs Committee, December 5, 2023
- [Schatz, Blumenauer, Braun, Fitzpatrick Introduce Bipartisan Legislation to Help Stop Illegal Deforestation Around the World, Fight Climate Change](#), Office of Rep. Earl Blumenauer, December 5, 2023
- [Rep. Blunt Rochester Introduces Comprehensive Bipartisan Supply Chains Package](#), Office of Rep. Blunt Rochester, December 4, 2023
- [Majority Leader Schumer Floor Remarks On House Republicans' Efforts To Derail Bipartisan Tough On China Provisions In The NDAA Conference](#), Senate Democrats, December 4, 2023

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