



# ICAS TRADE N TECH DISPATCH

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## What's Been Happening

### 1 — Tech and Trade Competition Rolls On, Congress Demands More — 1

#### [In One Sentence]

- U.S. Trade Representative Katherine Tai remarked that the U.S. needs to “identify and deploy” a number of additional measures to “overcome China’s state-directed industrial targeting” in the electric vehicle sector.
- A bipartisan group of U.S. Senators criticized the Biden administration for having “defied” the purposes of the Inflation Reduction Act by delaying the proposed deadlines to exclude Chinese companies from the U.S. electric vehicle battery and critical minerals supply chains.
- The U.S. Department of Commerce vowed to launch new efforts to keep “building and maintaining critical and emerging tech leadership” through its export controls policy, including by implementing controls on high-end chip exports to China.
- The Department of Commerce has announced the re-establishment of an export administration subcommittee under the President’s Export Council to ensure the effectiveness of export controls and protect U.S. commercial trade.

#### [Mark the Essentials]

- In a call with U.S. Secretary of Commerce Gina Raimondo, China’s Minister of Commerce Wang Wentao expressed “solemn concern” about U.S. sanctions on semiconductor manufacturing equipment and “sanctions against and suppression of Chinese enterprises.” In a follow-up press conference, China’s Minister of Commerce reiterated concerns about “the direct interference of the US with Dutch companies’ export of lithography machines to China” and expressed “firm opposition” to “US attempt to use export control as a tool and weapon to disrupt the normal trade between companies from other countries.”
- According to Chinese officials, the banning of Chinese telecommunication companies from the U.S. market constitutes a violation of Washington’s WTO obligations. The sanctions and export controls on chips and chip manufacturing equipment too violate the WTO principles and represent economic coercion that is unrelated to legitimate national security concerns.
- The House Committee on China has called on the Biden administration to use “all existing trade authorities” and establish “component tariffs” on “PRC legacy chips within finished products” to “stem U.S. reliance” on

foundational semiconductors produced in China. The House Committee also called on the administration to work closely with “key trading partners” and make the sanctions multilateral.

- The National Foreign Trade Council (NFTC) noted that trade compliance needs have added a “tremendously” increasing burden on the private sector as companies grapple with export controls, sanctions, cross-border investment reviews as well as new policies and standards on supply chain resilience and emerging and critical technologies. As per the NFTC, trade compliance is now “deeply integrated with the entire business from R&D forward,” and businesses must take a more “proactive” and “holistic” approach to help identify products and technologies that the government “maybe” would like to control.

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

- Decoupling electric vehicle (EV) supply chains, it turns out, is harder than initially thought, given China’s dominant position within the battery and critical minerals marketplace. On December 1, 2023, the Biden administration released its proposed ‘foreign entity of concern’ (FEOC) rules with regard to critical minerals and battery components, as part of rulemaking for the Inflation Reduction Act’s (IRA) EV tax credit provisions. As per the rule, beginning Jan 1, 2024, an eligible clean vehicle must not contain any battery components that are manufactured in China and, beginning in 2025, an eligible clean vehicle must not contain any critical minerals that were extracted, processed, or recycled in China. Barely seven weeks in, the ground under this rule has already begun to crack. On January 18, Hyundai Motor Group (HMG), the second largest EV seller in the U.S., requested the Treasury Department to temporarily exclude a limited number of critical materials sourced from China—spherical graphite and synthetic graphite most prominently—so as to enable HMG to comply with the FEOC rule. In 2022, China refined and produced 100% of the spherical graphite and 69% of the synthetic graphite worldwide and just this past December, China’s Ministry of Commerce, not coincidentally, imposed controls on the export of several categories of high-purity natural and synthetic graphite materials vital to EV battery manufacturing. Exports of graphite and related products to Japan and the U.S. are currently down by 42% and 20%, respectively, as per December trade data. By contrast, in early January, China approved the export of synthetic graphite as well as finished products containing graphite to a number of major South Korean EV battery companies. These South Korean EV battery companies also happen to be the largest committed foreign investors in the U.S. battery manufacturing sector. They have collectively called for a three-to-four year exclusion from the IRA’s non-FEOC battery and mineral component requirements in order to establish supply chains independent of Chinese input. Clearly, something or someone will have to give here. Either the Korean companies will have to substantially renege on their U.S. investment commitments or, alternatively, the FEOC proposed rule’s timelines with regard to certain critical materials will have to be substantially revised. It bears noting in this regard that the licensing provisions in the proposed rule had already been flexibly written to enable U.S.-based EV and battery companies to enter into IP licensing relationships with FEOC (Chinese) entities, so long as the latter does not exert ‘effective control’ over their operations. Even this baseline of ‘effective control’ now seems likely to shift as Chinese companies become significant players within the battery sector of select U.S. FTA partner countries—South Korea and Morocco most notably. When the final FEOC rules on the IRA clean vehicles’ critical minerals and battery component requirements are written, it will have to bow substantially to the reality of China’s dominant position within these supply chains. Which will, in turn, inflame opinion on the Hill which had hoped to use these rules to elbow out Chinese competition under the guise of supply chain resilience. Decoupling EV supply chains is turning out to be a lot harder than has been the case with chips, at least so far.

## [Expanded Reading]

- [ASML's China Sales Surged Despite Secret Dutch Deal With US](#), *Bloomberg*, January 25, 2024 [Paywall]
- [Flush With Investment, New U.S. Factories Face a Familiar Challenge](#), *New York Times*, January 15, 2024 [Paywall]
- [US-China chip war may extend to legacy chips](#), *Asia Times*, January 13, 2024
- [Readout of Secretary Raimondo's Meeting with Minister of Commerce of China Wang Wentao](#), The U.S. Department of Commerce, January 11, 2024
- [Chinese commerce minister, U.S. commerce secretary hold phone talks](#), *Xinhua News*, January 11, 2024
- [MOFCOM Regular Press Conference](#), Ministry of Commerce People's Republic of China, January 11, 2024
- [Notice of Reestablishment of the President's Export Council Subcommittee on Export Administration and Solicitation of Nominations for Membership](#), Federal Register, January 9, 2024
- [Krishnamoorthi, Gallagher Call for Urgent Action to Reduce U.S. Dependence on PRC Foundational Chips](#), The Select Committee on the Chinese Communist Party, January 8, 2024
- [Letter to the Secretary Raimondo and Ambassador Tai](#), The Select Committee on the Chinese Communist Party, January 5, 2024
- [China's electric vehicle dominance presents a challenge to the west](#), *Financial Times*, January 5, 2024 [Paywall]
- [Letter to Secretary Austin and Secretary Yellen](#), Select Committee On The Chinese Communist Party, January 3, 2024
- [U.S. export controls need to 'change constantly' even if it's tough for businesses, Secretary Raimondo says](#), *CNBC*, December 5, 2023
- [Letter to the ambassador Tai](#), The Select Committee on the Chinese Communist Party, November 7, 2023

## 2 — The U.S. and EU Continue Pursuit of Trade and Investment Agenda on Multiple Fronts — 2

### [In One Sentence]

- The European Commission set out plans to bolster the bloc's economic security through closer scrutiny of foreign investments and more coordinated controls on exports and outflows of technologies to countries like China.
- U.S. Secretary of Commerce Gina Raimondo will lead a "Presidential Trade and Investment Mission" to the Philippines in March 2024 to deepen ties with the Philippines' innovation economy and its clean energy transition and critical minerals sectors, among others.
- The United States and the European Union are negotiating an agreement to recognize mutual standards in the area of Internet of Things.
- The fifth U.S.-EU Trade and Technology Council (TTC) ministerial meeting will be held on January 30, 2024 in Washington, D.C.
- The United States has formally accepted the Indo-Pacific Economic Framework for Prosperity Agreement Relating to Supply Chain Resilience.

### [Mark the Essentials]

- The executive package proposed by the European Commission consists of five initiatives and is a follow-on measure in line with the bloc's June 2023 European Economic Security Strategy.
- According to EU officials, the next TTC ministerial meeting will coincide with a green trade stakeholder event to help gather stakeholder input on the current progress and future plans of the Trans-Atlantic Initiative on Sustainable Trade (TISS). Industry representatives have reportedly expressed hope that the event could lead towards a "more integrated and resilient transatlantic marketplace."
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- According to a phone call transcript published by the White House, a “senior administration official” confirmed that the U.S.-Taiwan trade talks under the U.S.-Taiwan Initiative on 21st Century Trade will not “slow down dependent on the results of the election” in Taiwan. Instead, the official noted that there is bipartisan support for the talks both in Washington and Taipei.

### [Expanded Reading]

- [Commission publishes new Guidelines for the annual report on dual use export controls](#), European Commission, January 25, 2024
- [Commission proposes new initiatives to strengthen economic security](#), European Commission, January 24, 2024
- [Japan's role in selling Biden's Indo-Pacific agenda](#), *Politico*, January 24, 2022
- [U.S. trade deputy Sarah Bianchi to leave Biden administration](#), *Axios*, January 17, 2024
- [Indo-Pacific Economic Framework for Prosperity Agreement Relating to Supply Chain Resilience](#), U.S. Department of State, January 12, 2024
- [Statement from NSC Spokesperson Adrienne Watson on Secretary Gina Raimondo's Participation in the Presidential Trade and Investment Mission to the Philippines](#), The White House, January 12, 2024
- [Indo-Pacific Economic Framework for Prosperity Agreement Relating to Supply Chain Resilience](#), U.S. Department of State, January 12, 2024
- [Background Press Call by a Senior Administration Official on Taiwan Elections](#), The White House, January 11, 2024
- [2023 Brings in Record Investments and Funding Opportunities to Support American Competitiveness and Create Good-Paying Jobs](#), U.S. Department of Commerce, January 5, 2024

## On the Hill



### [Legislative Developments]

- The House has passed a bill that would provide the U.S. Customs and Border Protection (CBP) with more flexibility in staffing its team and create a new “global trade specialist” position within CBP.
- House Digital Trade Caucus co-chair Darin LaHood reintroduced the Digital Trade for Development Act; a bill that would allow the U.S. to prevent developing countries from receiving benefits under the Generalized System of Preferences (GSP) if they restrict access to digital trade “to the detriment of U.S. strategic interests.”

### [Hearings and Statements]

- The National Association of Manufacturers called on the House Ways and Means Committee to approve a new Miscellaneous Tariff Bill (MTB) at the committee’s next markup.
- U.S. President Biden’s new nominee for deputy USTR, Nelson Cunningham, is reportedly facing skepticism in Congress for Cunningham’s previous work experience advising multinational corporations and his support for the now-defunct Trans-Pacific Trade Partnership (TPP) agreement.
- During a congressional hearing, Acting Assistant Secretary of Homeland Security for Trade and Economic Security Policy Christa Brzozowski said that the department is “absolutely committed” to expand trade and supply chain restrictions under the Uyghur Forced Labor Prevention Act (UFLPA).
- In an open letter to U.S. Trade Representative Katherine Tai, a bipartisan group of 32 lawmakers called on the Biden administration to prioritize renewing the World Trade Organization (WTO) Moratorium on Customs Duties on Electronic Transmissions.

- House Ways and Means Committee's trade subcommittee ranking member Earl Blumenauer expressed optimism on making progress on trade issues before the end of his term, including on *de minimis* reform.
- Rep. Jan Schakowsky, ranking member of the House Energy and Commerce Committee's Innovation, Data and Commerce subcommittee, said the Biden administration made the right choice to withdraw support for certain data flows, data localization and source code rules internationally as they could hinder domestic efforts to regulate big tech companies on antitrust matters.

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

Having failed to pass any substantial China competition legislation during this 118th Congress, legislators appear resigned now to playing 'small ball' on trade. The 118th Congress had kicked off with Senate Majority Leader Chuck Schumer vowing to introduce a China Competition Bill 2.0. The flow of advanced technology and investment to the Chinese government would be curtailed, China's economic coercion of U.S. allies and partners would be countered, and further domestic economic investment on the lines of the landmark CHIPS and Science Act would be secured in other critical sectors like biotech and bio-manufacturing. None of the legislative work streams in their regard has borne fruit so far—although an Executive Order on outbound investment controls was issued in August. In its place rather, a new round of trade policy priorities has been making the rounds on the Hill. These include renewal of the Generalized System of Preferences (GSP), passage of a Miscellaneous Tariff Bill (MTB), legislating changes to the *de minimis* rule, and expanding the Commerce Department's trade remedy enforcement capabilities. The changes to the *de minimis* rule, in particular, bears watching. Import transactions valued at less than \$800 are currently eligible for admission pursuant to informal entry procedures, and importers are also exempt from paying certain duties and from classifying sub-\$800 merchandise under the U.S. Harmonized Tariff Schedule. With low value but ultra-competitive Chinese shipments being the largest beneficiary of this rule at the expense of local businesses, a number of *de minimis* 'reform' ideas have been floated. These range from lowering the \$800 threshold (the original threshold was \$200), to barring goods from countries that are non-market economies and on USTR's IPR watchlist, to denying exemptions narrowly for textile shipments and retail ecommerce shipments, to broadly banning all Chinese (and Russian) *de minimis* shipments outright. With both sides of the aisle finding common cause in protectionism and on China, the likelihood of passage of *de minimis* 'reform' appears reasonably bright during this Congress.

### [Expanded Reading]

- [House Passes Steel, Panetta Bill to Strengthen Trade Enforcement](#), Office of Rep. Michelle Steel, January 18, 2024
- [H.R.5862 - Global Trade Specialist Act](#), Congress.gov
- [LaHood, DelBene, Smith, Blumenauer Lead Bipartisan Effort to Protect American Workers and Businesses from New Tariffs at WTO Conference](#), Office of Rep. Darin LaHood, January 18, 2024
- [Rep. LaHood introduces bill to update, enhance digital trade](#), *Financial Regulation News*, January 17, 2024
- [H.R.6990 - Digital Trade for Development Act](#), Congress.gov
- [Wyden Statement on Nominee for Deputy U.S. Trade Representative](#), United States Senate Committee on Finance, January 11, 2024
- [President Biden Announces Key Nominees](#), The White House, January 11, 2024
- [Blumenauer: De minimis reform could be a 'signature achievement.'](#) *Inside U.S. Trade*, January 11, 2024
- [Exploitation and Enforcement Part II: Improving Enforcement in Countering Uyghur Forced Labor](#), hearing in front of the House Homeland Security Committee, Oversight, Investigations, and Accountability Subcommittee, January 11, 2024
- [Press Briefing on "Digital Trade" Attack w/ Rep. Schakowsky, Rethink Trade, and Biz Groups](#), *Rethink Trade*, January 10, 2024 [Video]