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## What's Been Happening

### 1 — Seemingly Good Mood at MC13 but Stiff Challenges Remain — 1

#### [In One Sentence]

- The World Trade Organization's (WTO's) 13th ministerial conference (MC13) will be held from February 26-29 in Abu Dhabi, United Arab Emirates.
- WTO Director-General Ngozi Okonjo-Iweala identified a "relatively positive tone" in the lead-up negotiations to MC13, while WTO Deputy Director General Angela Ellard said the atmosphere is even more "constructive" compared to the lead-up to MC12.
- Meanwhile, U.S. Trade Representative Katherine Tai acknowledged the positive "feeling" but cautioned that progress at the WTO is "not going to be easy" and requires "pragmatism" and "incremental" steps.
- Several officials, like former longtime WTO spokesman Keith Rockwell, have pointed out the difficulty in reaching agreements in fishery subsidies and on e-commerce.
- The co-convenors of WTO's e-commerce initiative concluded a new draft text to reflect consensus on several e-commerce matters, including a permanent moratorium on customs duties on electronic transmissions.
- The e-commerce draft text does not include proposals on cross-border data flows, data localization, and source code and leaves out some discussions related to ICT products, electronic payments and development.

#### [Mark the Essentials]

- According to the WTO's schedule, a significant number of meetings will focus on issues such as dispute settlement reform, e-commerce, and trade-related intellectual property rights, while preparatory works in the lead-up to MC13 were tense on issues such as fisheries subsidies and (agricultural) public stockholding.
- In a web post on the upcoming MC13, the U.S. Chamber of Commerce's John Murphy called first for the continuation of the "e-commerce moratorium;" a two-decade-old moratorium against imposing any customs duties on cross-border electronic transmissions. According to Murphy, the e-commerce moratorium is "one of the biggest drivers of growth in the world today." The chamber's call to extend the moratorium was later supported by a group of 22 major U.S. business groups.
- In the course of finalizing preparations for MC13, WTO members agreed to a final report which states that no consensus has been reached regarding whether to expand the TRIPS waiver for COVID-19 vaccines to also cover tests and treatments. WTO members agreed in June 2022 to ease certain intellectual property

requirements under the TRIPS agreement for COVID-19 vaccines but have been divided on whether to expand this waiver to also cover COVID-19 diagnostics and therapeutics.

- In a February 6 article on the WTO and the upcoming MC13, former WTO director and spokesperson Keith Rockwell estimated that given his current reading of the negotiations, MC13 will not deliver any concrete deal on agriculture, fisheries subsidies, e-commerce moratorium extension or WTO reform “unless things turn around quickly.” According to Rockwell, despite general understanding that the listed issues need to be addressed, the United States has shown limited commitment to secure concrete progress, and WTO members have yet to form a consensus on these matters.
- During a U.S. House Ways & Means Committee’s subcommittee on trade hearing, Hogan Lovells partner Kelly Ann Shaw told lawmakers that “there is very little, if anything, on the MC13 agenda that will advance U.S. interests.” Former Deputy U.S. Trade Representative and U.S. Ambassador to the WTO Dennis Shea argued that the WTO was “fundamentally flawed” and that aside from the extension of the e-commerce moratorium, “less ambitious” MC13 outcomes are “perfectly acceptable” from the U.S. perspective.

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

- Trade liberalization, memorialized in successive multilateral trade rounds, was a transformative force for good during the latter half of the 20<sup>th</sup> century. The twenty-fold increase in international trade was pivotal to the leap in global incomes and standards of living. Even in the post-Cold War period, the four-fold reduction in poverty worldwide can be traced to trade, as low-and-middle income countries doubled their share of global trade. What a pity, then, that almost 25 years into the 21<sup>st</sup> century, the WTO had failed to conclude any significant market-opening agreement—be it via the single undertaking approach or other bespoke approaches. And what a pity, equally, that, almost 25 years into the 21<sup>st</sup> century, the WTO’s unwieldy membership is struggling to tie-up loose ends on a low-octane agreement representing second-order 20<sup>th</sup> century trade policy issues (reining in fisheries subsidies more comprehensively; extending the e-commerce moratorium; extending the TRIPS waiver to cover COVID-19 diagnostics and therapeutics) in the run-up to the WTO’s thirteenth ministerial conference (MC13) in Abu Dhabi. An agreement to incorporate the July 2023 Investment Facilitation Agreement into the WTO’s legal architecture and the admission of two LDC countries, Timor Leste and Comoros, is expected to be announced at MC13. As for the most consequential 20<sup>th</sup> century trade policy issues—the gusher of trade-distorting domestic agricultural subsidies (spending on ag. subsidies outrank fisheries subsidies by a factor of 10) and the broken dispute settlement system—solutions seem nowhere to be found. The former is not even on the conference agenda. And as to when 21<sup>st</sup> century inter-governmental trade multilateralism will get down to addressing the actual and pressing 21<sup>st</sup> century trade policy challenges—new disciplines on trade and environment in this age of climate crisis; new rulemaking on trade’s nexus to the Article XXI national security exception; comprehensive rulemaking on industrial subsidies—that prospect remains as distant as ever. The e-Commerce Joint Statement Initiative is a relative break from this pattern. WTO-centered trade multilateralism has been likened to the canary in the coalmine of global economic governance. While this trade multilateralism is not about to break down completely, its political inability to tackle the plain 21<sup>st</sup> century trade challenges in, well, this 21<sup>st</sup> century bodes poorly for the future of global economic governance.

### [Expanded Reading]

- [Fisheries subsidies chair circulates draft text to ministers as basis for MC13 negotiations](#), World Trade Organization, February 16, 2024
- [Agriculture negotiations chair circulates revised text, aiming for outcome at MC13](#), World Trade Organization, February 16, 2024

- [US trade chief looks for incremental reform at WTO meeting](#), Reuters, February 14, 2024
- [Big trade deals likely elusive at WTO meet in Abu Dhabi](#), France 24, February 13, 2024
- [3 Business Priorities for the WTO's 13th Ministerial Conference](#), U.S. Chamber of Commerce, February 6, 2024
- [A moment of truth for the WTO](#), Hinrich Foundation, February 6, 2024

## 2 — Katherine Tai Readdresses America's Trade Direction — 2

### [In One Sentence]

- U.S. Trade Representative Katherine Tai headlined a Council on Foreign Relations event to discuss “current U.S. trade strategy and priorities for the WTO Ministerial Conference.”
- Describing the United States’ “traditional” trade policy as a payment of labor and environmental standards in exchange for greater market access, Tai argued that her work today is to create jobs and “reinvigorate the American middle class” in trade policy conversations.
- Tai also argued that the United States must first decide its domestic laws on privacy and data regulation before “tak[ing] steps forward” in trade and multinational discussions, defending USTR’s move to withdraw support for certain digital trade proposals at the WTO.
- In a later meeting, Tai argued that USTR has “developed and is negotiating the highest-standard labor texts ever developed” for the Indo Pacific Economic Framework, the United States-Taiwan Initiative on 21st-Century Trade, and the United States-Kenya Strategic Trade and Investment Partnership.

### [Mark the Essentials]

- According to USTR Tai, the Biden administration’s “economic focus” is to “build out and reinvigorate the American middle class,” with USTR “extend[ing]” this focus to “the trade policy conversation.” Tai argued that worker and environmental concerns should be a shared aspiration of the U.S. and its partners.
- Tai argued that the advancement of digitalization has made data, data privacy and data-related regulatory concerns an issue beyond “facilitating trade.” Instead, the United States must first determine its regulation of data and of “companies that accumulate, harvest and trade in this data” before the USTR “can thoughtfully and responsibly engage in trade negotiations.” Unlike the European Union and China, the United States has yet to legislate a comprehensive federal framework for data protection or privacy.
- The United States’ deficit in goods and services fell by nearly 19% in 2023 compared to 2022, with a \$35 billion increase in exports and a \$142 billion contraction in imports. U.S. exports of services was a major driver behind the shrinking deficit. Service exports increased by around \$74 billion while goods exports decreased by \$39 billion.

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

- U.S. Trade Representative Katherine Tai, along with Ron Kirk, President Obama’s first USTR, have been the weakest USTRs on record since the creation of the position in the early-1960s. The third year of a first-term administration is typically the year when important trade policy outcomes get done. Instead, in 2023, USTR Tai drew an ignominious blank in her key negotiations with Asian (on the Indo-Pacific Economic Partnership) and European (on a Global Arrangement on Sustainable Steel and Aluminum and a Critical Minerals Agreement) partners. Closing out these negotiations in an election year, for the EU Parliament in June and in the U.S. a couple of months later, will only get harder. On one key future-oriented trade policy topic though—framing cross-border digital trade rules—she, rather than her detractors, has got it absolutely right. In a consequential decision that will resonate for many years to come, USTR pressed the pause button in October on supporting certain digital trade provisions, such as the unrestricted free flow of data across

borders, a total ban on data localization requirements, and proscriptions against the turning over of proprietary source codes, in future trade agreements. The purpose of doing so, rightly, was to avoid preempting Congress' prerogative to frame comprehensive digital policy rules at home, now that a head of steam has built up on Capitol Hill to rein in the monopolistic excesses of Big Tech. Of course, Congress should have moved much earlier on this front. China's own crackdown and straightening out of Big Tech at home just goes to show the value of proactive enforcement—even if the methods employed left much to be desired. It was always a long shot to expect that international data flow rules could somehow preempt or flout the redrawing of domestic regulation in the sector. The decision by USTR to delineate regulatory 'policy space' is especially timely, given the dynamism and fluidity of innovation, processes and practices in the digital universe as well as the fast-paced changes in regulatory best practice. Rules such as those requiring access to algorithmic "black boxes" in this day and age of generative AI would have been inconceivable even three years ago. USTR Tai's decision to pause also comports with the ultimate end-goal of free trade, that being the welfare of the consumer, broadly understood. Social media platforms and digital companies have been the antithesis of responsible guardians of the consumers interest, with a legion of documented harms now clear for all to see. USTR Tai was spot-on in saying that getting ahead of domestic debates and decisions on digital trade would amount to "the tail wagging the dog" and would constitute "massive malpractice." The digital trade 'pause' has come not a day too soon. The ball is now in Congress' court; it needs to stop talking and start legislating.

### [Expanded Reading]

- [China Reports Smallest Foreign Investment increase in over two decades](#), *The Wall Street Journal*, February 18, 2024 [Paywall]
- [German Direct Investment in China Rose to Record in 2023](#), *Bloomberg*, February 16, 2024 [Paywall]
- [Senate poised to pass biggest piece of tech regulation in decades](#), *The Washington Post*, February 15, 2024 [Paywall]
- [Readout of First Round of the U.S.-Japan Task Force on the Promotion of Human Rights and International Labor Standards in Supply Chains](#), Office of the United States Trade Representative, February 14, 2024
- [2024 President's Interagency Task Force to Monitor and Combat Trafficking in Persons Annual Meeting](#), The White House, February 13, 2024 [Video]
- [US Outbound Investment in China: Implications and Possible Congressional Action](#), event by American Enterprise Institute, February 13, 2024
- [C. Peter McColough Series on International Economics with Katherine Tai](#), event by Council on Foreign Relations, February 12, 2024
- [US trade deficit rises marginally in December; narrows sharply in 2023](#), *Reuters*, February 7, 2024
- [US firms in China slightly more optimistic, but caution remains-survey](#), *Reuters*, January 31, 2024
- [U.S. and China are working to make the business environment less volatile, Beijing says](#), *CNBC*, January 26, 2024

## 3 — Busy Schedule of U.S. International Trade Outreach — 3

### [In One Sentence]

- The U.S., Austria, France, Italy, Spain and the United Kingdom have agreed to extend a political compromise that exempts U.S. firms operating in European jurisdiction from digital service taxes while the Integrated Framework negotiations are ongoing.
- The U.S. and Philippines plan to host the sixth Indo-Pacific Business Forum in Manila on May 21, 2024 to allow government and business representatives to exchange ideas, explore partnership and discuss future commercial opportunities.

- U.S. and European Union officials agreed to take “another look” at concluding negotiations on a critical minerals trade deal which is crucial to resolving Brussels’ concerns about the United States’ Inflation Reduction Act subsidies.

### [Mark the Essentials]

- European Union Trade Commissioner Valdis Dombrovskis told reporters that the EU is interested in bringing in other countries into the transatlantic talks to address both global overcapacity in steel and aluminum and the industry’s decarbonization standards. According to Dombrovskis, Japan, the UK, Canada and other countries have also expressed “lots of interests.” The U.S. and EU have made limited progress on their steel and aluminum talks last year, which Dombrovskis attributed to the United States’ failure to provide a “credible pathway” to removing its Section 232 measures on the EU’s steel and aluminum exports.
- During a panel discussion at the Washington International Trade Association’s (WITA) annual trade conference, Singapore’s ambassador to the U.S. Lui Tuck Yew urged the U.S. to have more engagement with the Indo-Pacific’s existing regional agreement partners. He pointed out that the U.S. is absent from various multilateral frameworks in the region like RCEP and the CPTPP. For Singapore, U.S. economic engagement is critical not only to maintain the regional economic order but also to balance China’s growing presence in this region.

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

- It is a truism that very little gets done on the trade policy front in an election year. With elections bearing down in June for the EU Parliament and in November in the U.S., the window to strike productive trade outcomes is narrowing fast. Finalizing the trade pillar of the Indo-Pacific Economic Framework (IPEF) has more-or-less been given up on. The Latin America-focused Americas Partnership for Economic Prosperity (APEP) was nothing much to begin with in the first place. MC13 in Abu Dhabi trundles on. Three last bites of the apple remain in the truncated time-window, going forward. In April, the EU and the U.S. will sit down for one last ‘capstone’ TTC meeting. It remains to be seen if the two sides can emerge with an agreement, either on critical minerals or on conformity assessment procedures related to certain green goods and technologies. Neither will be easy to finalize. Difference on conformity assessments and mutual recognition was what had sunk the U.S.-EU TTIP negotiations in the early and mid-2010s. In May, the president of Kenya will pay a state visit during which time the two sides will try to finalize their Strategic Trade and Investment Partnership (STIP) negotiations. Finally, forward progress on the agriculture chapter of the U.S.-Taiwan Initiative on 21st Century Trade can be expected during the early months of 2024. After that, it’s off to the races.

### [Expanded Reading]

- [PH,US co-host 2024 Indo-Pacific Business Forum in Manila](#), *Philippine News Agency*, February 13, 2024
- [United States to Co-Host the Sixth Indo-Pacific Business Forum](#), U.S. Department of State, February 12, 2024
- [The United States’ Enduring Commitment to the Indo-Pacific: Marking Two Years Since the Release of the Administration’s Indo-Pacific Strategy](#), U.S. Department of State, February 9, 2024
- [Trump Team Targets European Union for Punishing Trade Steps](#), *Bloomberg*, February 7, 2024
- [How Brussels can precision-tune its instruments of trade conflict](#), *Financial Times*, January 29, 2024
- [EU hopes to overcome US opposition to WTO ‘court’ as key summit nears](#), *EURACTIV*, January 24, 2024



### [Legislative Developments]

- The House Rules Committee advanced a bill that would end the Biden administration's temporary pause on exporting liquefied natural gas (LNG) to countries without a free trade agreement with the United States.
- Nearly 90 House Democrats, led by House Appropriation Committee ranking member Rosa Delauro (D-CT), have expressed their appreciation for USTR's withdrawal of support for digital trade provisions on data flows, data localization and source code at the World Trade Organization.

### [Hearings and Statements]

- In an open letter to the Federal Maritime Commission (FMC), several House lawmakers urged the FMC to rapidly set the rules for shipping exchanges to restrain China's "manipulation" of the global ocean shipping industry and ensure that market participants obtain trusted and real-time data "with proper regulatory oversight."
- A new House China Committee report says that U.S. venture capital investments have played a "critical" role in development of China's tech industries, especially artificial intelligence and semiconductors.
- The Biden administration is engaging with stakeholders as well as Senate Finance Committee Chair Ron Wyden (D-OR) to restrict the export of U.S. citizen data to data brokers and other entities of concern.
- In an open letter to USTR Katherine Tai, the House Judiciary Committee Republicans have requested USTR to provide comprehensive information related to the Biden administration's "policies, processes, and decisions relating to" the proposed expansion of the TRIPS agreement for COVID-19 vaccines at WTO.
- The House Ways & Means Trade Subcommittee Chair Adrian Smith said that House lawmakers are making "good progress" towards renewing the Generalized System of Preferences (GSP) program.
- The House Science, Space & Tech Committee Chair Rep. Frank Lucas (R-OK) said that the passage of an outbound investment law is unlikely in 2024, given lingering divisions in Congress on the matter and the upcoming elections.

### [Expanded Reading]

- [House approves bill to block Biden's pause on new gas export projects](#), *The Hill*, February 15, 2024
- [The letter from 12 members of the House Committee on the Judiciary to USTR Kathrine Tai regarding the TRIPS at WTO](#), Congress of the United States, February 13, 2024
- [2024 Washington International Trade Conference](#), WITA, February 13, 2024
- [DeLauro Leads 87 Representatives in Letter Supporting U.S. Trade Representative Katherine Tai's Worker-Centered Digital Trade Policy](#), Congress of the United States, February 12, 2024
- [U.S. lawmakers accuse five VC firms of investing \\$3 billion in Chinese companies linked to military activities](#), *CNBC*, February 9, 2024
- [COMMITTEE REPORT: American VC Firms Investing Billions into PRC Companies Fueling the CCP's Military, Surveillance State, and Uyghur Genocide](#), The Select Committee on the CCP, February 8, 2024
- [How to Deter China Economically with Representative Frank Lucas](#), Hudson Institute, February 5, 2024
- [WHAT THEY ARE SAYING: Leaders Praise Biden-Harris Administration Pause on Pending Decisions of Liquefied Natural Gas Exports](#), The White House, January 27, 2024