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What's Been Happening

1 — MC13: Minimum Deliverables, Major Impasses — 1

[In One Sentence]

- The World Trade Organization's 13th Ministerial Conference (MC13) was held from February 26 to March 2, 2024, in Abu Dhabi, United Arab Emirates.
- The closing of MC13 was delayed several times because negotiators struggled to reach a deal on major issues including fisheries subsidies, an agriculture work program, and e-commerce.
- Despite the extension of the conference, no agreement or deliverable was reached on WTO dispute settlement system reform or on fisheries subsidies.
- Compared to MC12, the new draft text on fisheries subsidies at MC13 had contained several new additions, including stricter provisions, an expansion of applicability to include all WTO members, and a U.S.-backed proposal on forced labor in fisheries.
- The e-commerce work program and the moratorium on customs duties on electronic transmission was extended until 2026, but did not include text on closing the "digital divide" between developed and developing countries or the standard clause found in past moratorium extensions that hints at its proposed extension beyond the next ministerial.

[Mark the Essentials]

- European Trade Commissioner Valdis Dombrovskis had previously warned that MC13 negotiations would be "complicated and unpredictable," arguing that negotiations would likely be prolonged, and expectations for dispute settlement reform must be "realistic" given its "political sensitivity" for the United States.
- At the beginning of MC13, WTO Director-General Ngozi Okonjo-Iweala had called on the "several countries who consider themselves leaders" to "exercise leadership" and make trade-offs to reach a meaningful agreement. In the event, leadership was at a premium and meaningful trade-offs were few and far between.
- The negotiation on dispute settlement reform has been stuck due to member disagreements on the WTO's appeal/review mechanism and on dispute settlement system's accessibility. A large number of WTO members had sought to issue a ministerial declaration in order to show further commitment to resolving the nonfunctioning status of the Appellate Body but the United States reportedly blocked the attempt.

- The United States also issued a new proposal to address forced labor in the fisheries sector, characterizing it a priority at MC13. The proposal would have required each WTO member to notify the WTO of “any vessels and operators for which the Member has information that reasonably indicates the use of forced labor, along with relevant information to the extent possible.” In the event, the proposal did not find widespread support.
- A number of major business groups in the United States went vocal with regard to the importance of extending the e-commerce moratorium at MC13, arguing that the moratorium has yielded “tremendous benefits” to U.S. industry, workers and consumers and that non-continuation of the moratorium would constitute “a major blow to the credibility and durability of the WTO as an institution.”

[Keeping an Eye On...]

- As surely as night follows day, and to the surprise of nobody, the WTO’s 13th Ministerial Conference (MC13) in Abu Dhabi ended as a big fat failure. There was no deal on fisheries subsidies (even the limited fisheries subsidy agreement of MC12 has yet to enter into force), no agreement on public stockholding and an agriculture work program, no agreement on dispute settlement, and narrow avoidance of failure on renewing the 26-year-old moratorium on ecommerce duties. Come MC14, the e-commerce moratorium could be on the chopping block too, depending on how matters play out at the OECD/G20 Inclusive Framework tax treaty discussions this June on allowing countries to tax foreign companies doing business within their borders despite a lack of physical presence there. The thinking is that even if a multilateral deal is realized—an iffy proposition—it will be shot down in the U.S. Senate at the time of ratification, given that the burden of taxation will disproportionately fall on American Big Tech firms. And in which case on the day after, not only will there be a plethora of digital services taxes imposed by a number of countries as they exercise their digital taxing rights but that the ecommerce moratorium on duties at the WTO could also be on the ropes at the next ministerial conference. Washington has not been shy to exercise its veto authority at the WTO, notably with regard to stalling the restaffing of the appellate body and getting the dispute settlement system up-and-running. This take-no-prisoners approach has rubbed off on some of the WTO membership’s least constructive participants, India and South Africa, as evidenced in New Delhi’s intemperate posture on a number of issues in Abu Dhabi. Should the Inclusive Framework tax discussions at the OECD fail, the ecommerce moratorium at the WTO may well be the next domino to fall. That having been said, MC13 did witness the limited success of a number of “joint initiatives” (plurilateral negotiations) conducted beyond the WTO’s formal and unwieldy consensus-based framework. These include a minor agreement on domestic regulation of services and one on investment facilitation for development, along with progress achieved in other “joint initiative” areas too. Plurilateral negotiations may well be the WTO’s near-and-medium-term future, going forward, although even here the habitual rejectionists could obstruct the pathway to formalizing these plurilaterals within the WTO’s legal framework. Broadening the frame beyond MC13, global trade continues to fragment under the pressure of supply chain ‘resilience’ measures by national governments, and the violation of WTO rules is becoming endemic too. All-in-all, the multilateral trade governance skies have darkened. And all this before Donald Trump has even become president (possibly) a second time around.

[Expanded Reading]

- [WTO fails to reach deal on fishing subsidies](#), *SeafoodSource*, March 4, 2024
- [EU Policy. India’s unrealistic demands sank WTO agri talks, claims commissioner](#), *Euronews*, March 4, 2024
- [India Reverses Course And Permits Tariff Moratorium To Be Extended](#), *Forbes*, March 4, 2024
- [MC13 ends with decisions on dispute reform, development; commitment to continue ongoing talks](#), World Trade Organization, March 1, 2024
- [World Trade Organization ends meeting in UAE after failing to reach major agreements](#), *ABC news*, March 1, 2024

- [India calls for ban on China, EU fishery access agreements at WTO Abu Dhabi talks](#), *SeafoodSource*, February 29, 2024
- [Don't just blame the US; India is blocking WTO reform too](#), *Politico*, February 16, 2024

2 — White House Rolls Out New Cyber ‘Desinicization’ Measures — 2

[In One Sentence]

- U.S. President Joe Biden signed an Executive Order (EO) to reduce U.S. reliance on Chinese manufactured cranes, citing national security risks and cybersecurity concerns related to U.S. vessels, harbors and ports.
- Citing the national security risk of “autos from China” that seek to “flood” the U.S. market, the Biden administration has tasked the Commerce Department to investigate “the threat to critical infrastructure or the digital economy” from “foreign adversary” configured smart cars—“connected autos” that “incorporate technology from China.”
- A day earlier, the Biden administration signed another Executive Order to restrict large-scale transfer of Americans’ bulk personal data to “countries of concern.”
- The Office of the U.S. Trade Representative (USTR) aims to expand usage of the U.S.-Mexico-Canada Agreement’s rapid response mechanism, arguing that the mechanism has proven fruitful to protect workers rights at auto parts facilities.
- The International Energy Agency (IEA) aims to establish a new program to strengthen supply chain resilience of critical minerals, given the upcoming challenge of transitioning to renewable energy sources.

[Mark the Essentials]

- In a follow-up fact sheet, the Biden administration announced that it will invest more than \$20 billion in U.S. port infrastructure over the next five years, including grants and other awards made available by the Bipartisan Infrastructure Law and the Inflation Reduction Act. The fact sheet specifically highlighted the decision of PACECO Corp., a U.S.-based subsidiary of Japanese company Mitsui E&S Co. Ltd to onshore U.S. manufacturing of cranes.
- According to the White House, the Department of Justice is also directed to “establish clear protections” for Americans’ “sensitive personal data” and to extend protections to “genomic data, biometric data, personal health data, geolocation data, financial data, and certain kinds of personal identifiers.”
- According to the IEA, the program aims to address two main concerns: insufficient critical minerals supply to keep up with the demand resulting from the clean energy transition; and the over-concentration of critical mineral supply in “one single country or two.”
- Representatives of some U.S. importers have told USTR that despite continuous efforts, it will take at least several years to fully move away from Chinese vendors and Chinese imports, citing quality, quantity and product safety issues with suppliers outside of China.
- Analysts and commentators have called on the U.S. government to require more disclosures and conduct more data gathering on U.S. investments in China, especially portfolio investment, so that a meaningful policy can be devised on restricting and reviewing U.S. outbound investment in China.

[Keeping an Eye On...]

- Cybersecurity concerns involving China have long risen to the fore in U.S. politics and national security. During the 2010s, the focus was on cyber-enabled commercial espionage, with President Barack Obama winning a pledge from President Xi at the 2013 Sunnylands Summit to clamp down on such theft. In the years since President Trump declared a new great power rivalry in his National Security Strategy of December 2017,

the focus shifted to China's cyber-activities within U.S. government systems and U.S. critical infrastructure. In May 2023, the cybersecurity agencies of the Five Eyes countries issued a joint advisory against Volt Typhoon, an allegedly Chinese state-sponsored actor, that had infiltrated and burrowed itself inside U.S. and Five Eyes' critical infrastructure systems. In mid-February, FBI Director Christopher Wray delivered a blistering critique of China's pre-positioning of malware that could be triggered disruptively at a future date to an audience of cyber-chiefs at the Munich Security Conference. Wray's words may need to be taken with a pinch of salt, given the spectacular implosion of the Justice Department's various 'China Initiative' cases as well as the recent throwing out of the FBI's-landmark trade secrets theft charges against Fujian Jinhua Integrated Circuit Company. Be that as it may, Wray's critique was a prelude to three Biden administration Executive Orders in the space of ten days on China-linked cybersecurity concerns. On Feb. 21, an EO that addresses cyber-vulnerabilities linked to ship-to-shore cranes produced in China was rolled out, following media reports as well as a congressional investigation that such cargo cranes deployed at more than 200 ports around the country contained remotely accessible communications equipment (cellular modems) that was unneeded for normal operations. On Feb. 28, an EO accompanied by a 90-page Advanced Notice of Proposed Rulemaking (ANPRM) that is designed to restrict 'foreign adversaries' access to Americans' bulk sensitive data, was released. The ANPRM constitutes the second instance of the U.S. government seeking to directly regulate U.S. personal data for national security reasons (rather than for privacy or other reasons) following the 2018 Foreign Investment Risk Review Modernization Act (FIRRMA) of August 2018 which had listed categories of "sensitive personal data" of U.S. citizens to be effectively kept beyond the acquisitions reach of a foreign adversary. And tucked-in also on Feb. 28, was an EO and accompanying ANPRM that seeks to strip out foreign adversary content from key electric vehicle software systems—vehicle operating system; telematics systems; automated driving systems; advanced driver assistance systems; battery management systems; satellite/cellular telecoms systems—to guard against undue risk of "sabotage," "subversion" or other "catastrophic effects on the security or resiliency of United States critical infrastructure or the digital economy." Although a touch overwrought, to say the least, and informed no doubt by the growing protectionist phobia that aims to keep Chinese EV's out of the U.S. market, the three EO taken together are the latest instance of the U.S. government's laser-focus on 'derisking' important industrial sectors as well as the digital economy of China-linked cybersecurity concerns. Surely, this will not be the last such instance.

[Expanded Reading]

- [FACT SHEET: Biden-Harris Administration Takes Action to Address Risks of Autos from China and Other Countries of Concern](#), The White House, February 29, 2024
- [U.S. launches investigation of Chinese vehicles, citing security risks](#), *The Washington Post*, February 29, 2024
- [China's BYD Confirms Mexico Factory Plan But Rules Out Exports](#), *Asia Financial*, February 29, 2024
- [Chinese automaker BYD looking for Mexico plant location, executive says](#), *Reuters*, February 28, 2024
- [Executive Order on Preventing Access to Americans' Bulk Sensitive Personal Data and United States Government-Related Data by Countries of Concern](#), The White House, February 28, 2024
- [US ports remain confident in China-made cranes despite security concerns](#), *China Daily*, February 26, 2024
- [U.S. to Invest Billions to Replace China-Made Cranes at Nation's Ports](#), *The Wall Street Journal*, February 21, 2024
- [FACT SHEET: Biden-Harris Administration Announces Initiative to Bolster Cybersecurity of U.S. Ports](#), The White House, February 21, 2024
- [Executive Order on Amending Regulations Relating to the Safeguarding of Vessels, Harbors, Ports, and Waterfront Facilities of the United States](#), The White House, February 21, 2024

[Legislative Developments]

- The trade subcommittee Chair Adrian Smith (R-NE) said the lawmakers are making “good progress” on producing a bipartisan bill to reauthorize the Generalized System of Preferences (GSP).
- Senate Finance Committee members Mark Warner (D-VA) and Marsha Blackburn (R-TN) introduced the Promoting United States Leadership in Standards Act of 2024 to address China’s growing influence in global technology standards.
- Republican Senator Josh Hawley (R-MO) introduced a bill to raise tariffs on automobiles from China, including automobiles manufactured by China-headquartered companies in third countries.
- A group of more than 40 Republican lawmakers introduced the “Countering Communist China Act.” Labeled as “the “largest and most comprehensive legislation addressing the Chinese Communist Party (CCP) ever introduced in Congress,” the bill aims to end the permanent normal trade relations with China, restrict outbound investment in China and promote free trade with third countries, among others.

[Hearings and Statements]

- Finance committee members Sens Sherrod Brown (D-OH) and Rick Scott (R-FL) have called on the Biden administration to reform the *de minimis* rule using existing executive power, stressing that interests of American businesses are being undermined by the deluge of low-value e-commerce packages from China.
- Arguing that imports of cheap Chinese goods could lead to an “extinction-level event” for the U.S. automobile industry, the Alliance for American Manufacturing has called on the U.S. government to take “dedicated and concerted efforts,” including through higher tariffs and rigorous enforcement of USMCA rules.
- A group of House Democratic lawmakers told Treasury Secretary Janet Yellen that existing IRA implementation rules must be revised and tightened to onshore the solar supply chain from China and encourage domestic polysilicon and wafer production in the U.S.
- A bipartisan group of Ways & Means Committee lawmakers pressed the Biden administration to aggressively address China’s use of forced labor in the seafood supply chain and to reach a “hard bargain” on disciplining fisheries subsidies at MC13, highlighting the need for U.S. leadership on the issues given their economic, ecological, and human rights significance.
- The House Oversight Committee expressed dissatisfaction with the U.S. Trade Representative’s partial response to requests for documents related to the Indo-Pacific Economic Framework’s negotiations and other matters, leading to ongoing follow-ups and broader inquiries into USTR’s transparency and policies.
- Senate Intelligence Committee Chair Sen. Mark Warner (D-VA) and ranking member Sen. Marco Rubio (R-FL) have called on the Commerce Department to implement stricter export controls on biotechnology to restrict the outflow of relevant U.S. technology, capital, data and talent to China.

[Expanded Reading]

- [Sen Hawley wants Biden to hike tariffs on Chinese energy imports](#), Fox News, March 5, 2024
- [Senator Rubio seeks stiffer tariff to stop China 'flooding US auto markets'](#), Reuters, March 5, 2024
- [House Oversight chair launches probe into USTR digital pivot](#), Politico, March 4, 2024
- [Warner, Blackburn Introduces Legislation to Reestablish U.S. Leadership in International Standards-Setting for Emerging Tech](#), Senator Mark R. Warner, February 29, 2024
- [House Republicans tout new bill as 'strongest' anti-CCP measure in history](#), Fox News, February 29, 2024

- [Senate Democrats ask Treasury to require American-made wafers for solar panel domestic content bonus](#), *Solar Power World*, February 29, 2024
- [Law enforcement leaders, manufacturers join Brown to push administration to close “De Minimis” trade loophole that undermines American manufacturers](#), Sherrod Brown U.S. Senator for Ohio, February 28, 2024
- [Email Print Intel Chairman Mark R. Warner Applauds EO Protecting Americans’ Sensitive Personal Data](#), Senator Mark R. Warner, February 28, 2024
- [US should block cheap Chinese auto imports from Mexico, US makers say](#), *Reuters*, February 24, 2024