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What's Been Happening

1 — Disjointed U.S. Trade, Industrial and Foreign Policies at the Fore — 1

[**In One Sentence**]

- The Office of the U.S. Trade Representative (USTR) told Congress that the U.S.-Mexico-Canada Agreement (USMCA) should be adjusted to address concerns about Chinese investment and labor practices in Mexico's automobile sector.
- USTR also said that the U.S. will continue to grant USMCA tariff relief only to automobiles that source a higher percentage of their core components in North America, a practice that runs counter to a January 2023 USMCA dispute settlement panel ruling.
- In public comments to the Commerce Department, industry representatives have complained about the administration's "barrage of requests for information" regarding supply chain matters, and highlighted the need for "greater coordination across the federal government."
- Speaking at the U.S. Chamber of Commerce's Critical Minerals Summit, analysts and former officials criticized Washington's attempt to outcompete China on conventional battery materials as "a race to the bottom on cost."
- They support, rather, strict trade enforcement to shut out goods made with forced labor but argued that U.S. companies should be allowed to "innovate our way out" by investing in "next-generation" battery products that can "leapfrog the status quo."

[**Mark the Essentials**]

- The United States disagrees with Canada and Mexico on USMCA's rules of origin requirements for automobile imports. Under the U.S.' interpretation, automobiles are eligible for USMCA tariff relief only if a higher threshold of "core components"—primarily engines, advanced batteries and transmission—are sourced in North America. The United States' interpretation would increase North American content requirements by 10-20% compared to Mexican and Canadian practices—an interpretation that a USMCA dispute panel struck down in January 2023.
- The State Department, the Office of the U.S. Trade Representative (USTR) and the Commerce Department have announced plans to establish a new Economic Diplomacy Action Group to "advance U.S. economic priorities, including supply chain resilience," "create opportunities for American businesses globally," and

"attract foreign investment into the United States in sectors vital to U.S. national security." According to Secretary of State Blinken, the Economic Diplomacy Action Group will aim to ensure high labor and environmental standards in global trade.

- Speaking on USTR's withdrawal of U.S. support for digital trade proposals at the WTO, USTR Katherine Tai called for the recognition that decisions at the trade negotiation table have "significant and consequential" implications for U.S. domestic policies and argued that trade negotiators and trade policy should "complement our system but not to supercede it."
- Ambassador Tai also called on trade policymakers and practitioners to avoid "deal fever" and focus more on a trade agreements' "effect" on matters related to "economic opportunity" and "political participation."
- Meanwhile, industry representatives from the U.S. semiconductor and automobile industries have urged the Biden administration to pursue a trade policy that is "complementary" to U.S. industrial policy, including by promoting the free flow of cross-border data and securing overseas market access for U.S. manufacturers. John Neuffer, CEO of the Semiconductor Industry Association, argued that "whether it is for digital or hardware trade, we've just got to get back in the business of opening markets around the world."

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

- What happens in UMSCA dispute settlement doesn't stay in USMCA dispute settlement. Twenty-four years ago, the operation of NAFTA's (USMCA's forerunner) dispute settlement function came to a standstill when the United States, staring at a loss in a case filed by Mexico against U.S. restrictions on sugar, blocked the formation of an arbitral panel—in effect, paralyzing the procedure. Sugar, like steel, happens to be a politically super-sensitive sector which, in Washington's view, cannot be left to the discretion of a third-party arbitrator. Up until then, three NAFTA dispute settlement panels had been seated and cases litigated, including two where the United States was the respondent. The non-appointment of arbitrators in this fourth sugar case broke the back of the dispute settlement procedure; it essentially ceased to function thereafter. And this NAFTA-tested panel blocking strategy became the inspiration for the U.S.'s wrecking ball approach a decade-and-a-half later to tear down the WTO's Appellate Body (there had been too many adverse steel-related rulings for Washington's comfort). Fast forward to 2019 on the NAFTA/USMCA front. To prevent a repeat of the dispute settlement impasse, the Protocol of Amendment to the USMCA's dispute settlement chapter made it a point to ensure that if a respondent party fails to designate its roster of panelists within a defined time-frame in a contentious case, then the complainant party is at liberty to fill these spots. Essentially, if one party wants a dispute settlement roster set up to hear a complaint, it would get that roster set up. So, is the problem solved? And an elegant future solution, too, to the WTO Appellate Body impasse? Well, on panel blocking, probably yes. On adhering, more broadly, to dispute settlement rulings, no. In its report to Congress earlier this month on the operation of the automotive goods trade provisions in the revised USMCA, USTR essentially let it be quietly known that it does not intend to comply with an adverse ruling in an automotive rules of origin case brought by Mexico before a USMCA panel in January 2022. Unable to block the panel's seating, the Biden administration now insists that its interpretation of auto trade rules of origin must prevail over the arbitrator's interpretation. And perhaps at a later date, the U.S. will probably trade off this loss politically against a loss by Mexico in a future dispute settlement case. So much for the integrity of third-party rulings, then. And which further begs the question: Is there any purpose expending time, money and effort in trying to sort through the panel blocking impasse at the WTO? Even if a USMCA-styled remedy does come to pass, is it of any use if the Appellate Body's rulings are blithely disregarded thereafter? Going forward, maybe the 53 parties (as of June 2024) to the Multi-Party Interim Arbitration Arrangement (MPIA) that was set up in

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2020 should drop the 'interim' from its title and make it the permanent alternative appeals forum for WTO dispute settlement cases. With the EU, China, Japan, Canada, Australia, Brazil and Mexico already subscribing to the forum, and with South Korea, the United Kingdom (now that it has a Labour government), and the ASEAN countries hopefully incentivized to opt into the process, the MPIA could once again restore the integrity of third party dispute settlement among a nucleus of key and interested WTO member states that matter to the multilateral trading system.

[**Expanded Reading**]

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- Fixing the Information Crisis Before It's Too Late (For Democracy), *Open Markets*, June 27, 2024
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2 — The EU's Provisional China EV Tariffs (Continued) — 2

[**In One Sentence**]

- The European Commission (EC) began imposing provisional countervailing duties on Chinese battery electric vehicles (BEVs) starting July 4 for a maximum duration of four months, prior to a definitive decision in this regard.
- Duty rates vary across Chinese EV manufacturers and were marginally lower than the numbers disclosed a month earlier on June 12.
- Per the Commission's finding, Chinese BEV's benefit from a range of trade-distorting industrial subsidies that are provided by the government at less than fair market value.
- The European Union and China have started negotiations on the EC's EV provisional tariffs and consultations, reportedly, have "intensified" "in recent weeks."

[**Mark the Essentials**]

- According to a European Commission press release, the EC "concluded that the BEV [battery electric vehicle] value chain in China benefits from unfair subsidization, which is causing a threat of economic injury to EU BEV producers." Accordingly, the Commission has decided to impose countervailing duties on Chinese BEV imports at varying rates. BYD will be applied a duty of 17.4%, Geely 19.9%, SAIC 37.6%, while BEV producers who cooperated in the investigation but were not sampled are subject to a 20.8% weighted average duty. Meanwhile, all non-cooperating BEV companies in China are to be hit with a 37.6% duty.
- The provisional duties were imposed nine months after the EU initiated the anti-subsidy investigation into China's BEV sector. Definitive tariffs will need to be statutorily announced by November 2024.
- It is uncertain whether the countervailing duties might also apply to non-Chinese—and potentially European—brands that make BEVs in China. According to the European Commission, "one BEV producer in China – Tesla – may receive an individually calculated duty rate at the definitive stage," "following a substantiated request."

- Following a talk between China's Minister of Commerce Wang Wentao and European Commission Executive Vice President and Trade Commissioner Valdis Dombrovskis on June 22, the two sides agreed to "start consultations on the EU's anti-subsidy investigation into electric vehicles originating from China."
- More recently, the European Commission has noted that contacts "at [the] technical level" have continued "with a view to reaching a WTO-compatible solution" that addresses EU concerns on China's BEV subsidies. Meanwhile, China's Ministry of Commerce said the two sides have held multiple rounds of talks at the technical level and expressed hopes that the European side and China can "reach a mutually acceptable solution as soon as possible" "on the basis of rules and reality."

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

- Much has transpired in the time since the starting gun was fired on the China-EU battery electric vehicle (BEV) trade tussle with the announcement of provisional countervailing duties on Chinese BEV imports by the European Commission on June 12. On June 17, China's Commerce Ministry opened an anti-dumping investigation into EU pork and pork byproducts, with Spain and France—two of the most vocal advocates of the EV tariffs—likely to be the hardest hit (if the AD duties materialize). On June 22, China and the European Commission (EC) agreed to launch consultations on the EU's anti-subsidy investigation to arrive at a negotiated and WTO-consistent solution to their BEV dispute. On July 4, as per its internal processes, the Commission began imposing the said provisional countervailing duties, albeit marginally modified, on Chinese BEV imports. In its accompanying 208-page(!) Implementing Regulation, the Commission listed a bevy of actionable, producer-side, trade-distorting subsidies handed down by the Chinese government to its EV industry and related input suppliers, including preferential access to fiscal, land, and financial support at levels less than adequate remuneration, i.e., on non-market terms. Notable in the course of the EC's probe is a finding that companies like CATL that supply batteries to the EV manufacturers, a key input cost, essential operate as 'public bodies', exercising government functions to the effect that they implement the government's policy of supplying batteries at less than fair market value to facilitate the development of the domestic BEV industry. A day later, on July 5, China's Commerce Ministry announced the holding of an anti-dumping hearing on European brandy imports on July 18, following its initiation of a probe this January. French brandy imports are expected to be the hardest hit. Heavy hints have also been dropped that provisional tariffs could be imposed on the import of internal combustion engine (ICE) vehicles with engine displacement larger than 2.5 liters under the guise of aligning with green low-carbon development goals. Luxury models manufactured by German automakers are expected to take the biggest hit. Furthermore, on July 10, China's Commerce Ministry opened an unfair trade practices investigation into the EU's Foreign Subsidies Regulation (FSR), which the latter has employed to elbow out Chinese firms from participating in EU procurement projects in the wind, solar and electric trains sectors. Clearly, much has happened during this past month since the starting gun was fired on June 12. Looking ahead, it is the Chinese Commerce Ministry-European Commission negotiations that will determine the fate of Chinese BEVs in the EU marketplace. The sticks and carrots have been set out by both sides. Overall, the portents are, on balance, favorable. As the EC notes in its own Implementing Regulation of July 3, the "purpose of the countervailing duties is not to stop the imports of BEVs from China, but to restore a level playing field … [the] duties will therefore only compensate the distorting subsidization; trade will, however, continue to flow." And it bears remembering equally that eleven years ago, the EC and China had consensually resolved a relatively similar anti-subsidy and anti-dumping dispute on solar panels and components by hammering out a negotiated price and volume arrangement on imports from China that

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stabilized prices within the bloc and facilitated subsequent investment decisions by EU businesses. Will past be prologue?

[Expanded Reading]

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- BMW seeks lower import tariffs for China-made electric Mini, report says, *Reuters*, July 8, 2024
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- China hopes to reach a solution with the EU on EV tariffs 'as soon as possible,' *CNBC*, July 4, 2024
- EU lays out its China EV tariff calculations, *Reuters*, July 4, 2024
- EU brushes aside risk of China trade war over electric vehicle tariffs, *The Guardian*, July 4, 2024
- Commission imposes provisional countervailing duties on imports of battery electric vehicles from China while discussions with China continue, European Commission, July 4, 2024

On the Hill

[Legislative Developments]

- The House China Committee's critical minerals working group, led by Rep. Rob Wittman (R-VA) and Kathy Castor (D-FL), aims to accelerate legislative efforts by the end of the year to reduce the United States' dependency on China's critical minerals through providing "transparency into U.S. supply chain dependency for critical minerals" and developing "proposed investments, regulatory reforms, and tax incentives."
- House Republicans on the Appropriations Committee have proposed significant funding cuts to key trade agencies, including the U.S. Trade Representative, the U.S. International Trade Commission, and the Commerce Department, under the "Commerce, Justice, Science and Related Agencies Appropriations Act," despite these agencies' request for funding increase to compete with China.
- Negotiation over reauthorization of the Generalized System of Preferences (GSP) program has encountered a sticking point with the Democrats demanding that reauthorization of GSP include the renewal of Trade Adjustment Assistance (TAA), which the Republicans oppose.

[Hearings and Statements]

- During a House China Committee hearing, witnesses and lawmakers proposed several countermeasures against China's dominance in the chip, ship, and drone sectors, including imposing higher tariffs and quotas on imports from China, delisting Chinese firms from U.S. exchanges, and a new aid program for the U.S. shipbuilding sector along with port fees.
- Democrat Senators from Ohio and Pennsylvania have urged the Biden administration to block Nippon Steel's acquisition of U.S. Steel, arguing that the acquisition presents "clear and present threats" to the U.S. domestic steel industry and American workers. According to the senators, "foreign steel companies, such as Nippon, seek to gain any advantage they can when competing with the US," and accordingly, Nippon Steel's acquisition of U.S. Steel could color "future ITC rulings."

[Expanded Reading]

- Fentanyl, Critical Minerals Working Groups Hold First Meetings, The Select Committee on the CCP, July 9, 2024
- Senators, Steelworkers raise concerns over purchase of U.S. Steel, *Labor Tribune*, July 8, 2024
- Nippon Steel's Mori to visit US again next week for talks on US Steel takeover, *Reuters*, July 3, 2024
- China panel's mineral moves, *Axios*, July 3, 2024
- Wittman Leads First Critical Minerals Policy Working Group Roundtable, Office of the Rep. Rob Wittman(R-VA), June 27, 2024

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What's Been Happening

1 — China Vows Deeper Reform at Third Plenum, Western Observers Unimpressed — 1

[**In One Sentence**]

- From July 15 to 18, 2024, the 20th Central Committee of the Communist Party of China (CPC) held its third plenary session in Beijing.
- The session highlighted the CPC's commitment to "further deepening reform comprehensively to advance Chinese modernization" as well as its focus on important issues such as innovation, education, finance, domestic consumption, and national security, with the aim of fostering a high-standard socialist market economy by 2035.
- Critics in the West expressed their doubt regarding the third plenum's outcome particularly insofar as tackling China's near-term economic challenges, and argued that the meeting concluded with few signs of "fundamental economic reforms."
- China's economy faces challenges such as a crisis in the property sector, high local government debt, weak domestic demand, and lack of self-sufficiency in core technologies, leading to a downgrading of investor's confidence in the country's growth prospects.

[**Mark the Essentials**]

- To deepen reform and advance Chinese modernization, the CPC has vowed to build a "high-standard socialist market economy" with a "fairer and more dynamic market environment"; push for "high-quality development" and "all-around innovation" through new institutions and mechanisms that "foster new quality productive forces" and "talent development;" emphasize "coordinated reforms in fiscal, tax, financial" systems, and "equal exchanges and two-way flow of production factors" between urban areas and the countryside. Moreover, the plenum highlighted opening up as "defining feature of Chinese modernization."
- Unimpressed critics underscored that there were few signs of the third plenum representing a "major change" in the economic policymaking direction of the CPC. Some commentators also argued that the policy decisions are more "cliche" than substance and are mostly superfluous insofar as dealing with the current troika of sluggish domestic demand, property sector woes, and local government debt crisis.

- The IMF recently upgraded its estimation of China's economic growth from the original 4.6% to 5% in 2024. Earlier, in March 2024 the Two Sessions of the National People's Congress had set an annual growth target of "around 5%" for 2024.

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

- China's Big Man is also a big picture man who happens to be consummately aware of the complex challenges—'principal contradictions' in his words—facing China's modernization ambitions. A succinct paragraph in Xi Jinping's explanation of the Third Plenum's Resolution on Comprehensively Deepening Reforms captures the essence of the challenge facing his country: "*The market system still needs improvement; the market itself is not adequately developed; the relationship between the government and the market needs to be further straightened out; our innovation capacity falls short of the requirements for high-quality development; the industrial system, while large in size and extensive in scope, is not yet strong or sophisticated enough; the over-reliance on key and core technologies controlled by others has not been fundamentally changed; the foundations of agriculture need to be further strengthened; wide gaps persist in development and income distribution between urban and rural areas and between regions; and weak links remain in improving the people's wellbeing and protecting the ecological environment*." The Resolution itself, coming in at 17,700 words, is remarkably detailed, compared to the drab 3,700-word Third Plenum Communique. From a policy programmatic perspective, two subsections in the resolution stand out. They are: (a) deepening scientific and technological structural reform (Item #14); and (b) deepening reform of the fiscal and tax systems (Item #17). The S&T sub-section provides the most thorough public exposition so far of the views of the Party leadership on the topic, both in terms of diagnosing the challenge that China faces and the proposed pathways forward. The purported self-sufficiency that is sought in terms of scientific and technological infrastructure is to be achieved through, both, a Party control tower-led topic-down approach as well as flexible market incentives-based approaches that would be familiar to American S&T policy specialists. The fiscal and tax system subsection is the real 'game changer' element in the Third Plenum Resolution and is easily the most important outcome of the meeting. It includes arrangements to expand the sources of tax revenue at the local level and place more fiscal resources at the disposal of local governments while also granting the central government greater administrative authority and increasing the share of its expenditure in total government expenditure. Clearly, a good deal of thought and consensus-building has gone into drawing up this reform; this is not where the government was, policy-wise, even as recently as February. Implemented earnestly, these fiscal and intergovernmental tax reforms could be just as influential for sparking consumption-centered growth as the tax sharing system (TSS) reform of 1994—which did away with the perverse incentives of the 1980s-era fiscal contracting system—was for three decades of robust investment-led growth. On the other hand, some of the other proposed consumption-linked reforms, be it with regard to redistribution mechanisms and transfer payments, build out of the social security system, pushing out the retirement age, or reform of rural land ownership systems, appear to lack the needed detail or the required conviction and urgency. The obvious takeaway, then, is that China's 'excess savings' will not be productively absorbed in the domestic economy anytime soon, and that it will remain a point of contention with trade partners for quite some time. As for the external sector, while high-standards opening-up is prioritized, so also is the prioritization of resiliency measures. The medical sector is a prime example. Medical services are to be opened more widely to foreign investors while medical equipment supply chains (along with those for integrated circuits, industrial machine tools, instruments, basic software, industrial software, and advanced materials) are to be subject to risk-controllable resiliency measures. In any case, the chief impediment on this external opening front is not

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so much the lack of trade and investment market access (China is already a highly open economy) as much as the lack of a level playing field that implicitly favors local players at the expense of foreign businesses and, in the process, also ends up misdirecting capital for the most part to favored local players. As China's WTO trade policy review (TPR) report also notes, the aggregate scale of industrial subsidies are not easily quantifiable and tend to be doled out non-transparently. All-in-all, the Resolution on Comprehensively Deepening Reforms contains many useful reforms that are key to China's modernization prospects over the medium term. While foreign observers hoping for quick fixes to China's stumbling property woes or a 'big bazooka' stimulus injection to jump-start flatlining retail sales will be dismayed, the redesign of China's fiscal structure and system of taxation and the shift towards supporting household consumption (albeit at a slower pace than desired) bode well for the future. Ultimately, the proof of this pudding will be in its eating, i.e., in its implementation. The July 2024 Third Plenum Decisions should not be left to wither on the vine as was the case with the November 2013 Third Plenum Decisions.

[**Expanded Reading**]

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- Xi to Map Out Vision for China Economy as Key Meeting Wraps, *Bloomberg*, July 17, 2024
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2 — GOP Formally Nominates Trump, Endorses his Trade Platform — 2

[**In One Sentence**]

- The U.S. Republican Party formally nominated former President Donald Trump as the party's candidate for the 2024 presidential election.
- The Republican National Committee approved the 2024 GOP platform which closely mirrors former President Trump's trade policy plan to "rebalance trade," address "unfair foreign competition," and "secure strategic independence from China."
- Former President Trump recently defended high tariffs on China during a *Bloomberg* interview, arguing that tariffs such as the McKinley ones (Tariff Act of 1890) made the country rich and that tariffs make for good bargaining chips during negotiations.
- He also reiterated the importance of eliminating the goods trade deficit with China and for bringing manufacturing lines and employment back to the United States, expressing concerns that "China is building massive automobile plants" in Mexico.

[**Mark the Essentials**]

- Robert O'Brien, a former national security adviser under Trump, recently wrote that Washington should decouple with China through high tariffs and tough export controls to weaken China's economy. Former

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U.S. Trade Representative Robert Lighthizer has also repeatedly called for a strategic decoupling from China across a wide range of fields including trade, technology, investment, research and social media.

- During his Bloomberg interview, former President Trump said he "had no problems with China" but must take moves to address the trade deficit, stop the "rapid" decline of U.S. economic power, and develop domestic manufacturing, e.g. in automobiles. Trump also criticized Taiwan for taking "almost 100% of our chip industry" away and argued that Taiwan has become "immensely wealthy" through its semiconductor dominance at the expense of the U.S. The stock prices of several semiconductor companies, including TSMC, Tokyo Electron and Nvidia, fell following Trump's criticism of Taiwan's chips dominance and amidst concerns of tightened U.S. export controls on semiconductors.
- Close aides to former President Trump are reportedly drafting a policy plan to incentivize AI and emerging technology innovation by investing in the development of relevant military technology and deregulating "unnecessary and burdensome" rules that hinder AI innovation. Silicon Valley venture capitalists Marc Andreessen and Ben Horowitz recently endorsed Trump for the presidency, arguing that Trump's policies best support tech startups and the innovation ecosystem while the Biden administration's focus on safety standards and tests solely "enshrine" Big Tech and monopolies.
- The International Monetary Fund recently warned that the introduction of additional tariffs could lead to higher inflation, while two Peterson Institute economists argued that if Trump implements his plan to replace income taxes with tariffs, the move would "cost jobs, ignite inflation, increase federal deficits, and cause a recession."

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

- In a race that will be settled in a handful of swing states, many of them decided by white, non-college educated, blue collar voters based outside large metropolitan centers, the Democrats have seemingly chosen to plump for a Californian progressive who identifies as black and, in the likely view—rightly or wrongly—of the aforementioned swing voter, is a lady who has probably never done an honest day's labor with her hands. Good luck to the Democrats with their choice and her electability in Rust Belt America. Balanced against this, of course, is Donald Trump's high unfavorability ratings with average voters. Be that as it may, it is time to take Donald Trump both seriously and literally. And certainly so for his trade policy priorities, including his championing of a *Trump Reciprocal Trade Act* if he is re-elected president in November. In July 2018, a Trump acolyte had introduced a *United States Fair and Reciprocal Tariff Act* that would provide the president the authority to "impose a rate of duty on imports of that good from [a] country that is equal to the rate of duty applied by that country" on a like U.S. good. Or in Trump's words at the time, "fairness really." The leverage of threatened tariff hikes would compel countries to come to the table and lower their tariff and non-tariff barriers on U.S. goods. The bill went nowhere at the time, generally viewed as something between quixotic and crackpot. That is not the case today. With WTO law-breaking now becoming routine in the practice of U.S. trade policymaking, a *Fair and Reciprocal Tariff Act* in 2025 is no longer the sort of overreach that was seen to be the case in 2018. And even if a President Trump does not possess the congressional majorities to have a *Fair and Reciprocal Tariff* bill brought to his signing table, he will enjoy extensive tariff proclamation authority to ratchet tariffs upwards. By contrast, the president enjoys limited authority to lower tariffs and that too entirely in the context of trade promotion authority which is currently lacking. Essentially, with or without declaring a national emergency, the President can avail of a number of (non-anti-dumping/countervailing/ safeguards duties-related) statutes to increase tariffs. These include: Section 5(b) of the Trading with the Enemy Act (TWEA) of 1917; Section 232(b) of the Trade Expansion Act

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of 1962; Sections 122, 301, 604 of the Trade Act of 1974; and Section 203(a) of the International Emergency Economic Powers Act (IEEPA). So long as the president acts within the (wide) scope of his congressionally delegated tariff-raising powers on the basis of an "intelligible principle" that bears a "reasonable relation" to the task at hand, courts will not second-guess the president's methods and measures. Invocations of a "national emergency" are dime-a-dozen too, with 79 such declarations, as of February 2024, invoked under the *National Emergencies Act* since its enactment in 1976 (70 of those declarations utilized IEEPA authority thereafter). And it bears remembering too that President Nixon had utilized his TWEA-based authority (IEEPA's predecessor) to impose a 10% tariff on all imports into the United States in 1971, which was subsequently challenged but upheld in court. Trump has threatened a similar across-the-board tariff on all foreign imports, plus higher rates for Mexico and China. All said and done, tariff increases are on their way, one way or another. And if a *Fair and Reciprocal Tariff Act* is enacted, it will also bring the curtains down on 90 years of U.S. trade policy liberalization that started with the landmark, Depression-era *Reciprocal Trade Adjustment Act of 1934*. On trade, it's time to take Trump both seriously and literally.

[**Expanded Reading**]

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- 2024 Republican Party Platform, *The American Presidency Project*, July 8, 2024

3 — Unpacking J.D Vance's Stance on China Trade and Technology — 3

[**In One Sentence**]

- Former U.S. President and GOP presidential nominee Donald Trump announced that J.D. Vance, U.S. Senator from Ohio since 2023, will be his vice-presidential running-mate.
- During his first interview as Trump's Vice President nominee, Senator Vance said that China is "the biggest threat" to the United States and the "real issue" to focus on.
- Vance also told the Republican National Convention that he intends to "protect the wages of American workers" and "stop the Chinese Communist Party from building their middle class on the backs of American citizens."
- Tesla CEO Elon Musk, tech entrepreneur David Sacks and several tech investors applauded Trump for choosing Vance as his running mate, but some commentators expressed concerns over Vance's criticism of Big Tech and Wall Street and cautioned for consequent market impacts.

[**Mark the Essentials**]

- Some commentators argued that with J.D. Vance picked as the Vice President candidate, the Republican Party will be able to demonstrate greater policy continuity even after the ending of a potential second Trump presidency, including in the fields of U.S.-China relations. Vance has generally supported Trump's policy agenda of imposing high tariffs on China to address "cheap Chinese goods" and protect American workers from Chinese manufacturing. Similarly, echoing Trump's statement that Taiwan needs to "pay [the U.S.] for defense," Vance said that U.S. allies could no longer "free ride" on U.S. support.
- Analysts have expressed varied views about the Trump-Vance China agenda. Some support a future Trump-Vance administration's heightened focus on China as necessary and out of acknowledgement of the

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new geoeconomic realities. Others caution against a "China-only" focus and argue that U.S. commitments in Europe and the Middle East are essential to competing with China globally.

- While the Republican Party has long supported deregulation and corporate tax cuts, there are signs that a Trump-Vance administration might not necessarily embrace policies favorable to big companies and multinationals, and Vance has previously voiced support for current Federal Trade Commission head Lina Khan's antitrust agenda against Big Tech.

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What's Been Happening

1 — Kamala Harris' View on Politics, Economy, and Trade — 1

[**In One Sentence**]

- Vice President Kamala Harris has picked Tim Walz, the serving governor of Minnesota, as her vice presidential running mate.
- Up to August 9, 2024, Vice President Harris has not released her presidential policy platform.
- Before being picked as Joe Biden's running mate in 2020, Kamala Harris had criticized trade agreements such as the Obama administration's Trans-Pacific Partnership (TPP) and the North American Free Trade Agreement (NAFTA), rechristened as USMCA, for lacking sufficient labor and environmental protections.
- In addition, she has advocated for reducing the cost-of-living for middle- and working-class households through expanded social welfare provision.
- During the 2020 Biden-Harris election campaign, Kamala Harris, as the Vice Presidential Candidate, advocated for a tax policy that offered tax credits to single filers and married couples, increased corporate and estate taxes, and promised not to raise taxes for those earning less than $400,000.
- In addition, Harris supported a worker-centered and green-friendly trade policy and underlined the importance of reinforcing domestic trade preferences, including "Buy American" provisions.
- Moreover, she criticized the Trump administration for "losing that trade war" with China and argued that Trump's tax credits had in fact raised the living costs for American families and led to a 'manufacturing recession' at home.
- As Vice President, Harris has advocated for green industry cooperation between the U.S. and ASEAN, and was involved in promoting the United States' cooperation with African countries on digital trade.
- During the 2023 ASEAN-led summits, Vice President Harris reaffirmed the United States' commitment to cooperate with regional countries on maritime issues such as sustainable fishing.
- As the presumed new Democratic Presidential nominee, Harris has vowed to push for a "care economy," expanding social welfare provision such as paid family leave, housing assistance, child care and elderly care.

[**Mark the Essentials**]

- Stakeholders in Silicon Valley have argued that both Harris and Trump have adopted "aggressively anti-China" positions but with different approaches, with the Biden-Harris administration approach being "more predictable" by comparison. On domestic tech regulation, some critics argue that the Biden-Harris administration's antitrust scrutiny and restrictions on mergers and acquisitions is not welcomed by Silicon Valley players, andTrump is seen as more friendly to tech industries such as crypto and AI.

- Democratic Vice Presidential nominee Tim Walz and Republican Vice Presidential candidate JD Vance devoted themselves to class warfare in recent election campaigning, with a view to appealing to the 130 million middle- and low-income registered voters. Governor Walz criticized JD Vance's "career funded by Silicon Valley billionaires," and underlined "that's not what Middle America is." Responding to Walz's criticism, JD Vance defended himself by highlighting his rise as the "American dream."
- Kamala Harris was critical of several U.S. trade initiatives before Joe Biden picked her as his running mate in 2020. In 2016, then-Senator candidate Harris opposed the Obama Administration's Trans-Pacific Partnership (TPP) and argued that TPP undermined the "best interests of workers" and risked further climate change in California. In 2019, then-Senator Kamala Harris expressed her opposition to the U.S.-Mexico-Canada Agreement (USMCA) and called for greater protections for American workers.
- Since becoming Vice President in 2021, Harris has placed emphasis on digital trade issues and Africa, such as Mobilizing Access to the Digital Economy (MADE) Alliance in Africa and the Partnership for Digital Access in Africa (PDAA).
- In her early career as a senator in California, Harris had criticized China for its theft of intellectual property, but also emphasized the importance of cooperating with China on climate matters. Later, as Biden's vice-president, Harris stressed the importance of "maintaining open lines of communication" with Beijing, while criticizing Beijing too for its "bullying" activities in the South China Sea. Critics argue that Harris' China policy will be not significantly different from Biden's.

[**Keeping an Eye On…**]

- So much for Kamala Harris' background and policy positions as vice president in the Biden White House and earlier, which have been fairly unremarkable. In her first major decision as a leader in her own right though, she has hit the ball right out of the park. Her choice of Minnesota's heretofore-not-well-known governor, Tim Walz, as her vice-presidential running mate is both a sign of good judgment as well as a necessity. Aside from his compelling backstory, Walz's white, Midwestern, working class roots will come in handy on the campaign trail. It is hard not to exaggerate the extent to which this demographic will shape the outcome of the 2024 presidential election, given the peculiar electoral college counting system. Had a mere 257,025 (of the total 155 million-plus) ballots in the critical Rust Belt states of Michigan, Pennsylvania and Wisconsin been cast for Trump instead of Biden, the twice-impeached Donald would have retained the White House in 2020—despite losing the popular vote by a 7 million-plus margin. Likewise, had a mere 77,736 ballots in Michigan, Pennsylvania and Wisconsin been cast for Hilary Clinton instead of Trump in 2016, Mrs. Clinton would have become the first woman president of the United States. Those 77,736 votes enabled Trump to overturn his 3 million margin of defeat in the popular vote. As for the 'white men' element, Trump's defeat in 2020 was primarily the result of a five-percentage point shift among white men in favor of Biden. This shift was primarily driven by men who had voted for Obama in 2008 and 2012 but were put off by Clinton's 'unlikability' persona and chose Trump over her in 2016 (Trump faces a similar unlikability quandary today). The five-percentage point shift was instrumental to Biden's victories in Michigan, Pennsylvania and Wisconsin. As a black Californian woman, Kamala Harris stands on shaky ground vis-a-vis each of these demographics—white men, working class voters, and particularly in Midwestern swing states. The selection of Walz provides a much-needed re-balance to the Democratic

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ticket. Better still, it shows that Harris as a leader in her own right is capable of good judgment. As for her trade policy priorities going forward, that is best analyzed in the next issue of the *TnT Dispatch*, once the Democratic Party Platform is released in the days ahead in the run-up to the party's convention in Chicago from August 19-22.

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2 — The U.S. and China Clash Over the IRA at the WTO — 2

[**In One Sentence**]

- China has requested that the World Trade Organization (WTO) establish a dispute panel and assess whether the United States' Inflation Reduction Act (IRA) tax credits conform with WTO rules.
- In the formal WTO complaint, China argued that several of the IRA "subsidies" discriminated against imported goods, violating a number of WTO rules.
- Meanwhile, the U.S. said that Beijing's move represents "a regrettable attempt to prevent progress" on climate change and to "entrench reliance" on China.
- The U.S. blocked China's initial request, although China has the option to continue advancing the matter through a second request which the U.S. will not be able to block.
- The WTO Appellate Body remains in paralysis as the U.S. continues to block the appointment of new judges, making it impossible for the WTO General Council to adopt a binding, conclusive decision on the matter.
- In assessing U.S.-EU cooperation under the Biden administration, some Republican Senators have argued that the introduction of the Biden administration's non-WTO-compliant IRA subsidies has evoked transatlantic tensions and accordingly halted earlier efforts towards a coordinated U.S.-EU partnership to jointly address China's industrial subsidy and other non-market practices.
- The IRA tax credits have evoked concerns and necessitated negotiations with U.S. allies such as the European Union, South Korea and Japan, among others.

[**Mark the Essentials**]

- Calling the United States' Inflation Reduction Act (IRA) "the largest single subsidy measure in modern economic history," China argued that five tax credits under the IRA—including the electric vehicle credit and four related to renewable energy—constitute subsidies contingent upon the use of domestic goods over imported ones or otherwise discriminate against goods of Chinese origin. Accordingly, the subsidies violate provisions of the General Agreement on Tariffs and Trade (GATT) as well as WTO's agreements on

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trade-related investment and subsidies. A *Xinhua* article cited by China's State Council further argued that the IRA measures "have severely disrupted the global NEV industry chain and supply chain, increased the cost of energy transition," "damaged the fair competitive environment" and "challenged the authority of the multilateral trading system," but was noticeably silent on China's own unending list of non-market, trade-distorting industrial subsidies that are laid out in excruciating detail in the European Commission's anti-subsidy probe of Chinese battery electric vehicle (BEV) imports.

- In a later statement that responded to China's WTO request, the U.S. delegation argued that "China's dominance of the solar sector," efforts to "dominate the production and supply of many critical minerals important to clean energy" and threat to "weaponize" the control of critical minerals have necessitated the U.S.' "efforts to address the global climate crisis and build a resilient clean energy supply chain."
- The U.S. also distinguished its IRA measures from China's "massive non-market excess capacity in clean energy sectors," arguing that the IRA measures, unlike China's practices, do not target any sector for global or domestic dominance; do not create non-market excess capacity or an oversupply of clean energy products; do not drive competitors out of business; or engage in "a network of non-market policies and practices."
- In a recently released report titled *One Step Forward, Two Steps Back: A Review of U.S.-Europe Cooperation on China*, U.S. Senate Foreign Relations Committee ranking member Jim Risch observed that the passage of the IRA increased U.S.-EU tensions and has scuppered "promising" earlier efforts between U.S. and allies to uncover, identify and challenge China's unfair and non-market subsidy practices at the WTO.

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

- The U.S. has not had the best of runs at the WTO dispute settlement body (DSB) of late, having lost three successive cases over its interpretation and use of the exceptions provided-for in the GATT text, specifically those in Article XX (general exceptions) and Article XXI (security exceptions). From the moment the ink had dried on China's filings in the Section 232 steel and aluminum case and Section 301 tariffs case as well as Hong Kong's filing in the origin marking requirement case, it was clear as daylight that the constituted panels would strike down the U.S.' exceptions-based interpretations—its Article XX-based 'public morals' defense in the Section 301 case and its Article XXI-based 'national security' defense in the Section 232 steel and aluminum case as well as the origin marking requirement case. In the steel and aluminum case, the WTO panel ruled that while excess capacity in the steel industry might be a "matter of international attention," it 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. In the origin marking requirement case, by utilizing the Article XXI exception to compel Hong Kong exporters to incorrectly label their exports as a product of China at a time when U.S.-Hong Kong international relations were neither at a point of emergency or breakdown (the U.S. did, after all, carry on normal day-to-day trade with the customs territory), USTR had heaped a competitive disadvantage on Hong Kong's exporters. In the Section 301 case, the WTO panel judged the United States' remedial tariffs bore no correlation to achieving the said 'public morals' objective (there was nary a mention of the words 'public morals' in 250 pages of USTR's Section 301 investigative reports on China). The U.S. is now poised to lose a fourth GATT exceptions-linked case to China pertaining to its Inflation Reduction Act subsidies. While the U.S. has yet to file a legal defense, early signs suggest that USTR plans to champion the climate change cause and lean on an Article XX(b) general exceptions-based defense (USTR might also take recourse to Article XXI's "emergency in international relations" provision as a justification). This legal argument will not pass muster. While WTO members are allowed to adopt a policy measure that is inconsistent with GATT disciplines but "necessary to protect

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human, animal or plant life or health" (Article XX(b)), the relevant measure must not be applied in a manner which would constitute "a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail." By singling China out, the IRA subsidy measures amount to "a disguised restriction on international trade" that discriminates against goods of Chinese origin. The same legal principle applies with regard to the Article XXI "emergency in international relations" justification. While the self-judging invocation of an 'essential security interest' is permitted for the most part, the measure must not amount to being a disguised restriction on trade. Whether the climate change challenge amounts to being an emergency in "international relations" also remains to be seen. The U.S.-China clash over the IRA at the WTO has many months, if not years, to run; its legal outcome at the panel stage is, however, not in doubt. The interesting question to observe during the course of proceedings is whether the European Union, Japan and South Korea will join the IRA case in a third-party capacity and thereby implicitly support the Chinese position. They had done so in the Section 301 case, and had also registered their WTO law-based criticisms of the IRA at the time of its signing. In the time since though, each has struck up—or is in the process of striking up—its own sweetheart bargain with the Biden administration, muting its criticism in exchange for access to IRA subsidy money.

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What's Been Happening

— Special Edition: Unpacking Harris's Economic and Trade Policy Platform —

[**In One Sentence**]

- The U.S. Democratic National Convention (DNC) was held in Chicago, Illinois from August 19-22, 2024.
- During the DNC, Vice President Kamala Harris and Minnesota Governor Tim Walz were officially confirmed as the Democratic Party's nominees for President and Vice President.
- The 2024 Democratic Party Policy Platform, which the DNC approved on August 19, 2024, highlights several economic priorities including cutting taxes for American working families, ensuring big corporations' responsibility of paying their fair share, lowering the costs of healthcare, food and housing, and expanding the provision of social welfare.
- The platform aligns with previous policy statements of Vice President Harris but also repeatedly refers to President Biden's policies.
- On climate change, the policy platform aims to lower the cost of renewable energy and create more employment opportunities in the clean energy sector.
- On trade, the platform stresses priorities that protect American workers, facilitates the adoption of clean energy, and creates resilient supply chains.
- The policy platform describes China as the "most consequential strategic competitor" while emphasizing a "steadfast commitment" to "relentlessly advanc[e] U.S. interests and values while ensuring a floor of stability" in U.S.-China relations.
- On tech, the platform prioritizes the reinforcement of data privacy, promoting competition within the tech industry, ensuring online platforms' responsibility for content they share, and "managing the risks of AI."
- During her campaign swing in North Carolina, Kamala Harris backed a tax policy that expands child tax credits and increases the corporate tax rate from 21% to 28%, as well as pledged not to raise taxes for those earning less than $400,000.
- To address the current housing crisis, Vice President Kamala Harris plans to provide a tax credit of up to $25,000 to first-time homebuyers and reduce the costs for homebuilders to purchase starter homes.
- Moreover, Harris plans to exempt taxes for service and hospitality workers earning $75,000 per year or less.

- As Governor, Tim Walz's economic policy in Minnesota has focused on expanding social welfare and reducing taxes for the low and middle-income families.
- Vice President nominee Walz has a long history of engaging with China, including traveling to China in the late-1980s as part of an international teaching program organized by an NGO—in turn, leading multiple Republican lawmakers to criticize his "longstanding connection" with China.

[**Mark the Essentials**]

- Throughout the course of Harris' campaign, she has kept emphasizing the priority of reducing the cost of living for American families. To address the high cost of housing as well as rent price inflation, she has sought to partner "with industry to build housing, both to rent and to buy" and set a target of 3 million new homes over the next four years.
- Calling for a federal ban on corporate "price gouging" by grocery store chains in order to reduce food prices for American families, Vice President Harris plans to use new penalties to punish companies that "exploit crises and break the rules." Economists have scathingly dismissed her proposal as a "gimmick."
- Tim Walz's economic policies in Minnesota have shown a close alignment with Harris' economic agenda. As Governor of Minnesota, Walz prioritized the child tax credit, social welfare for K-12 students, and paid family and medical leave. He also enacted a series of tax cuts and tax credits for low and middle-income Minnesotans.
- In addition, Tim Walz's long history of contact with China has become a focal point of discussion. Republicans Rep. James Comer and Sen. Marco Rubio have criticized Walz's personal connection with China. Walz would become the first vice president to have lived in China since George H.W. Bush, who served as a U.S. diplomat in Beijing in the 1970s.

[**Keeping an Eye On…**]

- So, what is one to make of Kamala Harris's trade and industrial policy priorities if elected president? The Democratic Party did not bother to update its party platform to reflect Harris's priorities following Joe Biden's exit from the race. The draft platform that was approved on July 16 (before Biden exited) and affirmed this week on the convention floor instead repeatedly refers to a second Biden term. Within the 92-page document, the smattering of thoughts that pass as policy positions on trade and international economic policy appear primarily on pages 88 and 89. By contrast, the 2020 platform had a succinct section on building a fairer system of international trade within the first two-dozen pages, with substantive details laid out at the tail end of the document. To the best that one can glean something useful on trade from the 2024 platform, it is that a Democratic Party administration will be more selective in applying tariffs than one led by Donald Trump. Compounding matters, Vice President Harris has been sparse in her views on trade (and immigration), hoping that good vibes and upbeat messaging will compensate for lack of depth and detail against a boorish and undisciplined opponent. This is not a risk-free strategy. On the single most important campaign issue going into Labor Day—the cost-of-living distress, Mr. Trump's record is far better than Biden's. Inflation-adjusted weekly earnings rose handsomely during Trump's years in office; they continue to lag three-and-a-half years into the Biden presidency. Worse, it is not clear if Vice President Harris is capable or even interested in articulating a governing philosophy. Standing for all the good things that the Democratic Party stands for, and behind, does not amount to a philosophical rendering of deeply-held personal views, values, hopes and aspirations. Not since the end of the Cold War has there been a major party nominee for the presidency so lacking in the 'vision thing' as seems to be the case with Harris. Be that as it may, a Harris administration can be expected to pursue the same trend lines on trade and

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international economic policy as the Biden administration. In April 2023, National Security Advisor Jake Sullivan laid out its clearest exposition during a speech on the administration's "foreign [and economic] policy for the middle class" at the Brookings Institution. An eclectic mix of Donald Trump and Peter Navarro-style economic populism, Janet Yellen-popularized 'friendshoring', and Katherine Tai-championed worker-centered international partnerships, Sullivan's speech alluded to a five-pronged approach: pursuit of an expansive industrial policy at home; working with like-minded partners to build a resilient and leading-edge techno-industrial base; moving beyond traditional trade deals to new international partnerships; mobilizing large sums for global anti-poverty and climate change efforts; and protecting U.S. foundational technologies with a 'small yard, high fence' approach. The approach and trend lines are expected to more-or-less remain the same during a Harris presidency. As to their efficacy, that remains to be seen. While the Trump-Biden tariffs have led to a noticeable decline in China's bilateral trade surplus with the United States, China's overall market share of global goods exports has risen, not declined. While there has been a diversification—or 'friendshoring'—of goods production away from China, Chinese-sourced inputs remain key to assembly operations in these 'friendshored' destinations (i.e., Mexico and Vietnam). Besides, these diversification partners have not seen any significant recent U.S. investments, suggesting that it is Chinese (and Taiwanese) firms that are driving this diversification trend. A similar 'going out' dynamic was observed on the part of large Japanese firms following incessant U.S. pressure to revalue the yen in the early-1980s, leading in turn to the creation of Asia's dynamic, vertically integrated production networks. Today, Chinese firms stand to back-handedly benefit from this forced internationalization. And finally, while the 'small yard, high fence' export controls have temporarily hit hard, they have also done more to concentrate minds in Beijing to deepen reform of China's S&T ecosystem and self-sufficient capabilities than any 'Made in China 2025' plan could have achieved. A potential Harris presidency comes at a critical time in the United States' economic relations with China and the world. It is a pity that her party's platform does not reflect this seriousness on the trade and international economic policy front.

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What's Been Happening

1 — As U.S.-China Relations Stabilize, Wide Differences over Trade Remain — 1

[**In One Sentence**]

- From August 27-28, 2024, U.S. National Security Advisor Jake Sullivan visited China and met with President Xi and senior Chinese officials including Foreign Minister Wang Yi and Vice-Chairman of China's Central Military Commission, General Zhang Youxia.
- Following Sullivan's visit, the White House announced that President Biden and President Xi would hold a phone call in "the coming weeks."
- During the meeting with Foreign Minister Wang, Sullivan expressed concerns over China's "unfair trade policies and non-market economic practices" and underlined that the U.S. would take "necessary actions" to prevent American technologies from being used to "undermine the U.S.' national security, without "unduly limiting trade or investment."
- In response, Foreign Minister Wang Yi charged that the U.S. is using "overcapacity" as an excuse to pursue "protectionism" that will impair "global green development" and "world economic growth."
- China's Ministry of Commerce has announced that U.S. Under Secretary of Commerce for International Trade Marissa Lago will meet with China's Vice Minister of Commerce Wang Shouwen for a second meeting of the bilateral Commercial Issues Working Group on September 7 in Tianjin, China.
- The Office of the U.S. Trade Representative has once again delayed the announcement of its final plan to implement additional U.S. Section 301 tariffs on Chinese electric vehicles (EV) and batteries, pushing the date from some time in August to early September.
- The Office of the U.S. Trade Representative is seeking public and stakeholder inputs on U.S. electric vehicle and renewable energy tax credits under the Inflation Reduction Act, noting the "major issues" that China has raised while challenging the tax credits at the WTO.
- On August 26, Canadian Prime Minister Justin Trudeau announced that Canada will impose a 100% tariff on China-made EVs and 25% tariffs on Chinese steel and aluminum, addressing concerns over China's "non-market practices" "in parallel with other economies around the world."

- A week later, on September 3, China, the world's largest oilseed importer, announced plans to initiate an anti-dumping investigation into canola imports from Canada as well as an "anti-discrimination investigation" with regard to the relevant restrictive measures taken by Canada.

[**In Other News**]

- The European Commission has decided to reduce the tariffs that the European Union will impose on China-made Tesla EVs from 20.8% to 9%. According to the European Commission, the new tariff rate reflects the "level of subsidies" Tesla received in China after the Commission conducted a field trip in China to verify the relevant information. Nevertheless, some analysts argue that Tesla received significant local government loans, e.g. from the Shanghai government, and that Tesla has relied extensively on Chinese battery maker Contemporary Amperex Technology Limited (CATL), which also receives subsidies from the Chinese government.
- Following Canada's announcement of its plan to impose tariffs on China-made electric vehicles (EV), Canadian Minister of Export Promotion, International Trade and Economic Development Mary Ng highlighted the importance of working with the U.S. on "economic security," ensuring "greater economic and supply chain resilience" and addressing "certain non-market practices and policies related to electric vehicles as well as steel and aluminum."
- In a recent article, Peterson Institute for International Economics's Senior Fellow Mary Lovely and Research Analyst Jing Yan argue that the European Union and the United States are diverging in their approaches on trade ties with Beijing, which will inevitably impact their ability, down-the-line, to agree on national security and technology control policies related to China.

[**Keeping an Eye On…**]

- The 'new normal' in US-China relations continues to take shape, one piece at a time. In late-August, it was the turn of U.S. National Security Advisor Jake Sullivan to pay a return visit to Beijing (his counterpart, the Director of the Foreign Affairs Central Commission Office, Wang Yi, had visited the White House last October). In Beijing, Sullivan and Wang, held "candid, substantive and constructive discussions", which apparently seems to be the case with all presidential, cabinet and principals-level bilateral exchanges these days! The two sides agreed to disagree on the fundamental strategic framing of their relationship. Washington seeks a relationship of competitive coexistence where 'extreme competition' in four competitive domains (military, economic, political, and global governance) is sought to be managed rather than resolved; Beijing, on the other hand, seeks a relationship of peaceful coexistence where the two sides first develop a "right strategic perception" of each other: that they are partners, not rivals. Beneath this overarching disagreement though, the two sides continued to harvest modest but useful deliverables in the areas of counternarcotics, climate change, mil-mil communications, and AI safety and risk management. This 'new normal' in US-China relations is not a 'new Cold War' as some have posited – although there is a palpable Cold War-style zero-sum equation settling into their competition to dominate the high-technology and advanced manufacturing industries of tomorrow. Nor is the 'new normal', on the other hand, merely a more contentious version of the mix of engagement and competition that characterized their four decade-long post-normalization period of ties. Strategic competition between the US and China is for real and, if mismanaged, could drift into outright rivalry and across-the-board conflict – both hot and cold. That said, there is no one typology of interaction that cuts across the 'baskets' of US-China issues; the two countries' interactions, rather, span the range from the productive to the icy. Positioned towards the former end of the spectrum is their multilateral cooperation on climate change as well as Washington's and

[Online ISSN 2837-3863, Print ISSN 2837-

Beijing's multi-dimensional engagement on bilateral and multilateral macroeconomic and financial issues, helmed by their Economic and Financial Working Groups. 20-plus dialogue channels and communication mechanisms across a range of issue areas also continue to beaver away. On the other hand, the two countries' labor ministers have never met (the US insists that genocide and forced labor continues to be carried out in Xinjiang) and US Trade Representative Katherine Tai has yet to show up in-person in Beijing and explain her administration's stance on the Section 301 China tariffs. A complex relationship demands complex choices, built as much on ideology and values as on realism and objectivity. In an article in *Foreign Affairs* in August 2019, eighteen months before they assumed their role as the architects of the Biden administration's Indo-Pacific policy, Jake Sullivan and Kurt Campbell wrote of the imperative to establish a "clear-eyed coexistence [with China] on terms favorable to U.S. interests and values." America could, and should, both challenge and coexist with China. In Summer 2024, the spelling out of the terms of that 'clear-eyed coexistence' remains a work in progress. And while Beijing continues to pursue its bilateral interests reactively within this framework, this is not necessarily a losing proposition. A non-disruptive external environment, backed by a stable and coexistent relationship with the US, remains an essential ingredient of China's overarching #1 national interest priority – that being its re-rise and the fulfillment of its national modernization aspirations by the end of the first half of the 21st century.

[Expanded Reading]

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- Exclusive: Tesla asked Canada for lower tariff on China-made EVs, government source says, *Reuters*, August 29, 2024
- Wang Yi and U.S. National Security Advisor Jake Sullivan Hold Strategic Communication, Ministry of Foreign Affairs The People's Republic of China, August 28, 2024
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- Tesla faces lowest duty on Chinese-made cars exported to EU, *The Guardian*, August 20, 2024

On the Hill

[Legislative Developments]

- Applauding the U.S. Supreme Court's decision to overturn the *Chevron* doctrine, which grants federal agencies considerable leeway to impose rules and regulations by expansively interpreting legislative languages, Senator Mike Rounds (R-SD) introduced a bipartisan resolution to establish a joint congressional committee to comprehensively review all federal rules and regulations that significantly impact the U.S. economy.

[Online ISSN 2837-3863, Print ISSN 2837-

- Meanwhile, Senator Elizabeth Warren (D-MA) has led a group of influential Democrat lawmakers to introduce a bill that would legislatively codify the *Chevron* doctrine, arguing that the Supreme Court's decision hinders important regulatory progress in climate, green energy, and public health by unduly limiting the government's rulemaking authority.
- The Bureau of Industry and Security (BIS) is reportedly working with Senate Finance Committee Chair Ron Wyden (D-OR) to develop a National Defense Authorization Act (NDAA) amendment that would provide BIS the authority to regulate chips that can be remotely accessed, "fixing the loophole" that allow Chinese companies to rent AI chips from American companies like Amazon and Google via their cloud offerings.

[**Hearings and Statements**]

- Following the Supreme Court's decision to overturn the *Chevron* doctrine and require federal agencies to provide more justification in their regulatory rulemaking, House Republican leaders and Committee Chairs have reportedly sent oversight letters to "nearly every agency in the Executive branch," requesting information on agency rulemaking and documents to "reign in the vast, out-of-control administrative state."
- Rep. John Moolenaar (R–MI), Chair of the House China Committee, and Senator Macro Rubio (R-FL), ranking member of the Senate Intelligence Committee, have urged the Defense Department to put China's Contemporary Amperex Technology Co. Ltd (CATL) in its licensing blacklist, given CATL's "contribution" to China's civil-military fusion policy. The lawmakers argue that such a move would help "safeguarding America's military infrastructure from exposure to the PLA," and send "a powerful signal" to American companies that cooperate with CATL.

[**Expanded Reading**]

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- Rounds Introduces RESTORE to Address Regulatory Reform, Office of Sen. Mike Rounds (R-SD), August 12, 2024
- Warren Leads Senate Response to End of Chevron Doctrine, Office of Sen. Elizabeth Warren (D-MA), July 23, 2024

[Online ISSN 2837-3863, Print ISSN 2837-

TnT ICAS TRADE N TECH DISPATCH

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What's Been Happening

1 — USTR Finalizes Sweeping Tariff Increases on Chinese Imports — 1

[**In One Sentence**]

- After repeated delays, the Office of the U.S. Trade Representative finalized its actions on the statutorily required Section 301 China tariff review on September 13, 2024.
- USTR confirmed that it will enforce a duty of 100% on Chinese EVs, 50% on solar cells, 25% on steel, aluminum, EV batteries and key minerals, and 100% on syringes and needles, which would become effective on September 27, 2024.
- In addition, USTR announced a 50% duty on Chinese semiconductors, including on silicon wafers and polysilicon, and a 50% tariff on medical gloves, which would take effect in 2025.
- Starting in 2026, the USTR plans to impose tariffs of 50% on face masks, 25% on non-EV batteries, 25% on natural graphite, and 25% on permanent magnets.
- Moreover, USTR decided to adopt 14 temporary tariff exclusions on Chinese manufacturing equipment for solar cells and wafers, while declining to adopt five temporary exclusions on solar module manufacturing equipment.
- USTR also decided to expand the scope of the exclusion process to include five additional categories of machinery imports from China, out of 312 proposed additions.
- The Biden administration announced plans to no longer grant *de minimis* exemptions to imports of items from China that are subject to Section 232, Section 301 or Section 201 tariffs, seeking to close a "loophole" that it says benefits "China-founded e-commerce platforms."
- Meanwhile, on September 9, during election campaigning in Wisconsin, former U.S. president Donald Trump claimed if other countries intend to reduce the use of dollars, he will put a 100% tariff on these countries' exported goods to the United States.

[**Mark the Essentials**]

- In addition to finishing up its repeatedly extended review of Section 301 tariffs on China's exports to the U.S., the September 13 announcement implements the Biden administration's May 14 Memorandum on Actions related to the statutory 4-year review of the Section 301 investigation of China's technology transfer, intellectual policy and innovation-related policies and practices. Shortly after USTR's announcement, China's Commerce Ministry criticized the tariffs and labeled the U.S as a "disrupter of global industrial and supply chains" in its second annual report on the United States' compliance with the WTO.

- Among others, USTR's action seals the Biden administration's decision to impose a 100% tariff on Chinese electric vehicles (EVs). The Biden administration and other U.S. policymakers have argued that the tariffs are intended to "protect American workers and businesses from China's unfair trade practices" arising from the latter's subsidization of its EV sector, resulting in low and highly competitive EV price offerings. Others, though, attribute the significant price gap between U.S. and Chinese EVs to the comprehensiveness of the EV supply chain in China.
- U.S. policymakers have long expressed concerns over China's "dominance" in the solar industry, especially in the production of solar cells and modules. Nevertheless, downstream industrial users have resisted the imposition of tariffs or restrictions on Chinese solar imports. In 2022, for example, following an anti-circumvention investigation on Chinese solar panels by the U.S. Department of Commerce, the Biden administration nevertheless provided a 24-month tariff moratorium on solar panels shipped from Southeast Asia to avoid market and industry disruptions.
- Under existing customs practices, import shipments valued at US$800 or below are exempt from U.S. tariffs. According to the Biden administration, "some e-commerce platforms and other foreign sellers" have utilized the *de minimis* "loophole" to "circumvent" U.S. tariffs, including Section 301 tariffs on Chinese imports. As such, the administration has now instructed agencies to issue new rules to "improve accountability and enforcement in *de minimis* shipments," with a particular focus on e-commerce platforms such as Temu and Shein. The White House has cautioned though that "comprehensive legislative reforms on *de minimis*" is required to fully address the issue.

[**Keeping an Eye On…**]

- Almost exactly four years to the day that a dispute settlement panel in Geneva had ruled that the Trump administration's Section 301 China tariffs were inconsistent with the United States' WTO obligations under the GATT, the Biden administration has formally decided to not only double-down on the tariffs but also selectively expand them. The first tranche of tariff increases will drop as early as September 27. For those who argue that the president does not enjoy the authority to ratchet tariffs upwards in a big way (Congress constitutionally, after all, gets to "regulate commerce with foreign nations"), well, they should think again. On the basis of delegated retaliatory tariff authority under Section 307 of the Trade Act, the president has just quadrupled an already-unlawful tariff on electric vehicles to 100%, without even so much as a preliminary investigation of China's practices in the sector. Be that as it may, USTR's September 13 decision on the tariffs is a useful moment to take stock of the self-defeating nature of the Section 301 tariffs. Granted that the tariffs have reduced the bilateral trade deficit by over $100 billion, which is not exactly chump change. And the argument for their selective expansion—which is, to protect the recent industrial policy interventions by way of the CHIPS Act and the Inflation Reduction Act—holds a certain logic. Nevertheless, ample data and analysis is now available that confirm that the tariffs have become a massive exercise in trade self-marginalization on the part of the United States. And that they are a 'gift' to Beijing from a political standpoint. First, even as China's share of U.S. imports have slipped, China's overall market share of global goods exports has increased over these past five years, meaning that the country has become more important to the rest of the global economy. In a related vein, EU-China trade ties have intensified too during this period, particularly in medium-skill and technology-intensive goods. This intensification is set to deepen over the next decade, notwithstanding the various subsidization-linked trade measures proposed

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by Brussels that target Chinese producers. Second, while there has been a relocation and diversification of production outside China to escape the Section 301 tariffs, this diversification is limited and shallow. Nearshoring to Mexico and friendshoring to Vietnam has dominated this trend. Yet even here, the evidence suggests that final assembly of items in these countries continues to depend on China-sourced intermediate inputs. This 'lengthening' of supply chains runs counterintuitive to the logic of supply chain resilience which was the supposed reason—or, rather, the excuse—given to 'derisk' dependence on China. Third, much of the foreign direct investment supporting this supply chain diversification has tended to arrive from non-U.S. and non-Western sources. Which, in turn suggests, that it is East Asian and most likely Chinese investors providing the FDI that is driving this trade diversification. So much for 'decoupling' from China. And just as Japan. Inc.'s forced relocation of domestic production to East Asia due to American badgering to revalue the yen four decades ago spawned the remarkable region-wide production networks, so also the Section 301 tariffs will come to be seen as a blessing that equipped Chinese firms to internationalize and entrench their world-beating operations globally and obtain valuable 'learning by doing' experience along the way. Finally, the Section 301 China tariffs have turbocharged calls for protectionism—rarely ever a good idea—within the U.S. body politic. Like salted peanuts, the more they are dispensed to favored industries, the more they will be, and are being, demanded. The Section 301 tariffs (along the steel and aluminum Section 232 tariffs) have also dislodged the long-held trade policy consensus within the Beltway from its pro-liberalization moorings, with trade policy today shot through with streaks of populism and protectionism. At a time when most major economic players continue to liberalize their trade policy frameworks, albeit at a slower pace, Washington's tariff play has been a grand exercise in self-deluding marginalization on the global stage. Whatever one's view may be of the technology policy decoupling that Washington has pursued over the past half-decade, its trade policy counterpart has been an undiluted lose-lose proposition. It is set to continue with no turnaround in sight even on the distant horizon. And in the meantime, China will not just continue to intensify its trade linkages with much of the Global South and (the rest of the) North but also rack up wins *vis-à-vis* Washington at the WTO dispute settlement panel stage along the way.

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- FACT SHEET: Biden-Harris Administration Announces New Actions to Protect American Consumers, Workers, and Businesses by Cracking Down on De Minimis Shipments with Unsafe, Unfairly Traded Products, The White House, September 13, 2024
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- US locks in steep China tariff hikes, some industries warn of disruptions, *Reuters*, September 13, 2024
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[Online ISSN 2837-3863, Print ISSN 2837-3855]

[**Legislative Developments**]

- During what was dubbed as "China Week" in the U.S. Congress, the House passed more than 25 China-related bills on or around September 9 to "protect Americans against the military, economic, ideological, and technological threats" imposed by China.
- The BIOSECURE Act, for one, prohibits executive agencies from procuring, and federal contractors from using biotechnology equipment and services from certain Chinese companies that are deemed to be connected to the Chinese government.
- Among the dozens of "China Week" bills that passed the House, four of them sought to reform the U.S. export controls system. Specifically, the bills seek to clarify that the U.S. export controls system should be also used to protect United States' trade secrets and the domestic industrial base; create an expedited procedure for federal agencies to propose and enact modifications to the Entity List; expand the scope of export controls to also cover remote access of U.S. technologies and items; and require the Department of Commerce to periodically report its export controls enforcement progress to Congress.
- Two other bills would allow the President to sanction foreign entities that conduct economic or industrial espionage against U.S. companies; and push for better interagency coordination and harmonization of various sanctions lists.
- Regarding electric vehicles (EVs) and EV batteries, two bills would prohibit the Department of Homeland Security from procuring foreign-made EV batteries from a list of Chinese companies as well as further tighten regulations to ensure that Chinese businesses and Chinese business owners cannot benefit from U.S. tax credits that promote EV development.
- Other "China Week" bills would, among other changes, require prior congressional notification before the White House enters into, renews or extends the Science and Technology Agreement (STA) with China; revokes certain privileges granted to the Hong Kong Economic and Trade Offices; reestablish a "CCP Initiative" within the Department of Justice to curb "spying" and "trade secret theft" "by the Chinese Communist Party"; require a study into the national security risks posed by China-made consumer routers and modems; and require the United States representative to oppose an increase in the weight of the Chinese Renminbi in the International Monetary Fund's Special Drawing Rights (SDR) basket.
- On the Senate side, Senator Bob Casey (D-PA) introduced a package of five bills to enhance U.S. regulators' ability to review China's investment in and procurement of emerging technologies in the U.S.; disclose and limit U.S. investment in China; modify the rules-of-origin standards to prohibit goods with more than 20% of China-made components from enjoying free trade agreement benefits; and educate the U.S. port and shipping industry of Chinese logistics infrastructure and technology threats.

[**Hearings and Statements**]

- On September 12, the House Committee on Homeland Security and the House China Committee jointly released an investigative report regarding the "rising threat" of Chinese-made port cranes to U.S. economic and homeland security.

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- Although several U.S. lawmakers have applauded the Biden administration's decision to revoke the *de minimis* benefit accorded to Chinese exporters, lawmakers including House China Committee Chair John Moolenaar (R-MI), House Ways and Means Committee Chair Jason Smith (R-MO), Rep. Earl Blumenauer (D-OR) and Rep. Rosa DeLauro (D-CT) argued that the Biden administration's "first step" on the *de minimis* reform front merely reinforces the urgent need for Congress to pass legislation to close the *de minimis* "loophole."

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- Chairman Smith Statement on Executive Branch Action to Implement Ways and Means Republicans' De Minimis Reforms, House Committee on Ways and Means, September 13, 2024
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