



Forum for American Leadership

Improving Congress's Pending China Bills (With Hints from Beijing)

May 12, 2022

Summary

1. On Thursday, May 12, the Senate and House recently began the conference process on two bills meant to make generational advances in the U.S. ability to compete with China across strategic domains. As currently drafted, the Senate's "U.S. Innovation and Competition Act" (USICA) and the House's "America Creating Opportunities for Manufacturing Pre-eminence in Technology and Economic Strength Act" (COMPETES Act) leave substantial room for improvement.
2. Notwithstanding the legislation's branding, many provisions have nothing to do with China. The main China-related content concerns semiconductors, scientific research and development, and, in the House bill, initial steps to secure critical U.S. supply chains via a new federal regime for screening outbound U.S. investment flows.
3. To assess the potential impact of the two bills, the Forum for American Leadership's Asia Working Group reviewed Chinese commentary on the legislation. On balance, Chinese sources exhibit confidence rather than concern. They identify numerous loopholes in the bills' research security measures and note the absence of "guardrails" to prevent companies from using U.S. taxpayer money to invest further in semiconductor fabrication and other critical manufacturing in China.
4. Chinese analysts conclude that even if the bills become law, U.S. capital and high-tech know-how will continue to flow to China, enabling Beijing to overcome current bottlenecks and expand its role in global supply chains.
5. The House-Senate conference committee can improve America's competitive position by approving a beefed-up version of the House bill's National Critical Capabilities Review Committee (for outbound investment restrictions) and placing tighter guardrails on research spending and academic exchange, to ensure that federal taxpayer dollars do not ultimately [flow](#) to the benefit of China, whether directly or indirectly.
6. There remain many areas central to China competition that these bills fail to address altogether. One example: efforts to strengthen the pipeline of U.S. experts, inside and outside of government, who focus on China-related military, economic, financial, technological and other matters. Another: bolstering Taiwan deterrence, military and non-military.

Introduction

Know Thy Adversary: Members of Congress who are now conferring to reconcile the China bills passed over the last year by the Senate (USICA) and the House (COMPETES Act) would benefit from considering what Chinese sources have to say on the subject. Arguments in Washington for and against the legislation—which could allocate some \$250 billion to \$350 billion for activities with varying relevance to the China competition—seldom if ever cite Chinese sources, even though Chinese commentary can help illuminate which provisions Beijing may find most and least threatening. Such information can help conferees sharpen the final law.

One of Chinese leader Xi Jinping’s predecessors reportedly said in 1999: “Whatever the enemy fears, that is what we should build.” In this spirit, it would be logical for Congress to consider prioritizing measures that trigger CCP concerns. (The sources consulted for this analysis were in Mandarin, meant for internal consumption within China, rather than in English and intended as external-propaganda messages for foreign audiences.) These measures are likely to have the highest competitive payoff.

Chinese commentary betrays particular sensitivity to losing access to U.S. investment, talent, and intellectual property, particularly in key technology areas. As a professor from the Chinese Communist Party School [stated](#) after the Senate bill’s original passage last June, the legislation’s promotion of “scientific and technological decoupling” between the U.S. and China is its most worrisome element.

Xi Jinping’s Technology Vision: Under Xi, China’s Communist Party-state has sought to insulate itself from possible future embargos or blockades by mastering “[choke point](#)” technologies in sensitive areas, from semiconductors to cloud computing. The vision is not purely defensive, however, as Xi has specified the importance of “[offensive leverage](#),” i.e., using these “key, core technologies” to dominate international supply chains, rendering rivals dependent on China and thereby “[winning the future](#).”

Chinese inroads into the U.S. financial, commercial, and technological ecosystems have helped the PRC narrow the technological gap substantially. Chinese firms already occupy a central position in many critical supply chains, conferring economic leverage, and recent advances have furnished the People’s Liberation Army with cutting-edge systems that threaten the U.S. militarily. But because China has not yet mastered key, core technologies such as semiconductors, for now its strategy depends on continued access to foreign inputs.

Not All Spending Is Created Equal: While the PRC has been seeking technological independence, the United States has become dependent on foreign semiconductor supplies, from European lithography machines and Japanese tooling to manufacturing (fabrication) that takes place overwhelmingly in Taiwan.

Both the Senate and the House bills allocate \$52 billion to shore up the U.S.’s own semiconductor manufacturing capacity. (The House bill also authorizes \$45 billion more in grants, loans, and loan guarantees for supply chains of critical goods.) But both bills (especially

the House's) also feature a diverse range of other investments and initiatives, many of which are unrelated to the U.S.-PRC competition. Members of Congress have questioned the inclusion of money for coral reef and marine mammal research—with no reference to China's destruction of the natural ecosystem in the South China Sea. Accordingly, Chinese analysts largely ignore these provisions.

Perhaps more surprising, the Chinese sources examined here do not say much about the bills' spending on semiconductors and supply chains *per se*. What they dwell on—in a range of official and scholarly outlets—is the competitive framing of these outlays and the threat that they would pose to the PRC's access to, and leverage over, the U.S. economy *if they were fully implemented*.

The Bills' Specifics – the Good, the Bad, the Goofy

Chinese analysts complain that the bills depict the PRC as a U.S. competitor—in Chinese terms, they are “[full of Cold War thinking and ideological prejudice](#).” Even as the CCP designates the U.S. as “[the strong enemy](#),” Beijing wants Washington to treat it as just another trade partner, not as a rival. This would enable the PRC to preserve its access to American technology, capital, and markets, allowing it to further build up its own capacity while cultivating U.S. dependence.

Chinese commentary is most concerned about specific measures that would expand or build on Trump Administration efforts to restrict PRC access to U.S. technology, capital, and markets. Congress should consider how best to deprive Beijing of the access it is most keen to preserve.

Reshoring Supply Chains: Chinese sources express concern about a measure in the House bill establishing a new federal mechanism to review investment leaving the United States.

The measure provides for the establishment of a National Critical Capabilities Review Committee (NCCRC) that would “[block U.S. companies and other entities from investing in certain sectors abroad](#),” as one Chinese commentary captured it. Functionally, this source recognized that the NCCRC has more to do with supply-chain security than investment screening, as it seeks to encourage the “relocation of manufacturing facilities out of countries that raise concerns, including those that pose significant economic or national security concerns to the United States,” i.e. China. For instance, the U.S. wants to “[reduce its dependence on China by increasing the production of its own photovoltaic equipment](#),” another Chinese expert noted.

Since Chinese sources appreciate the distinction between reshoring and restricting outbound capital flows, their hostility to the mere mention of foreign investment restrictions is suggestive. Clearly this is a point of sensitivity that merits increased Congressional attention. An expanded, well-resourced NCCRC could address both supply-chain security and broader concerns about U.S. capital funding Chinese military or dual-use capabilities.

Talent Competition: Chinese responses to the bills also highlight the significance of the U.S.-China competition for science-and-technology talent.

As one PRC analyst wrote, “[We all understand that talents are the core competitiveness, and the key is to do better at cultivating, attracting, and retaining talents](#).” A number of Chinese experts have homed in on the House bill's provision exempting green card applicants with doctoral

degrees in science and engineering from country-specific quotas. This is threatening to China because it would make it “more convenient for China’s top technology talents to stay in the United States,” thus improving “[the competitiveness of the United States in the U.S.-China competition for technology talents](#).”

To be sure, efforts to siphon off China’s best and brightest must be balanced with concerns about the potential for espionage. Congress should improve the security of U.S. research by closing loopholes (addressed below) while maintaining our tradition of benefiting from foreign talent.

Tech Subsidies – and Missing “Guardrails”: Chinese commentary specifies loopholes and implementation obstacles that will allow continued flows of U.S. capital, talent, and know-how to China despite the intent of the new law.

Prior to the passage of the House’s COMPETES Act in February, Chinese sources noted the proposal of “[amendments to ensure that funds would not flow to China or other U.S. competitors](#).” These are the so-called “[guardrails](#)” that some lawmakers had called for to ensure that new federal funding for technology not flow into multinational companies’ operations in China or into academic/corporate research partnerships with Chinese entities that would undermine the goal of shoring up U.S. capabilities against PRC competitors.

In December, Commerce Secretary Gina Raimondo endorsed guardrails because the “whole point” of the legislation is “[to protect ourselves from China](#).” Nevertheless, as Chinese media noted approvingly, the amendments promoting guardrails “triggered opposition and protests from business groups like the U.S. Chamber of Commerce and the U.S.-China Business Council.” Such criticism also ensured that similar efforts were “[deadlocked in the past](#),” and the opposition prevailed in this case as well.

The lack of guardrails means that a U.S. semiconductor company could use savings from federal funds granted by Congress to invest in fabrication facilities in China, despite Washington’s intent. Congress might remedy this by adding in guardrails, after all, to help ensure that taxpayer dollars do not ultimately flow to the benefit of China, directly or indirectly.

Research (In)Security: Chinese sources have already outlined techniques for evading restrictions on talent programs and intellectual property transfers, should the legislation be enacted, including:

- One Chinese commentary [noted](#) that the Senate version calls for the Committee on Foreign Investment in the United States (CFIUS) to review foreign grants to, and contracts with, American universities, but the House bill does not. (COMPETES leaves scrutiny of grant recipients to the National Science Foundation, which is supposed to be increasing disclosure requirements.) The author anticipated therefore that implementation of any restrictions on U.S. funding of researchers backed by the Chinese state would be incomplete.
- A U.S.-based, PRC-educated professor observed that while the bills prohibit participants in Beijing-backed talent-recruitment programs from receiving U.S. federal research grants, there is no such restriction on “[researchers participating in Chinese scientific](#)

[research projects](#).” That is, as long as a Chinese researcher is not part of a formal Chinese government talent program, then that researcher would still be eligible for U.S. government funding under the legislation.

- The same professor, who teaches at Eastern Washington University in Washington state, pointed out that even if the bills are implemented, “the vast majority of technology exchanges will remain open,” including academic conferences, academic visits, and email exchanges, none of which the legislation proscribes.
- Overall, the professor advised Chinese scholars to study the provisions of the legislation in depth because “if you know where the red line is, you can be well-founded and know yourself and your opponent.”

These responses suggest the need for increased scrutiny of U.S.-China academic partnerships—whether through a body like CFIUS or another. Whatever office or agency conducts the scrutiny requires heft and resources to be effective, particularly in light of the loopholes Chinese experts have already identified. For research in certain sensitive areas, restrictions on interactions with Chinese institutions and professors could be extended to less formal exchanges. One approach might be for the United States to screen and filter “B” visas (tourist/business) using criteria similar to those enacted for “F” (student) and “J” (researcher) visas under Presidential Proclamation 10043 of May 2020.

Allies and Partners: It is not just U.S.-China resource flows at stake.

Chinese commentators recognize that U.S. actions have an international demonstration effect. They see it as problematic that Congress’s legislation has “[become the focus of attention from the outside world](#).” To prevent other countries from following the U.S. lead in restricting China’s access to technology and capital, Beijing’s official response has been to attribute the bills to “[the U.S.’s domineering and bullying behavior](#).” (A resolution passed by China’s rubber-stamp parliament called them “[vile acts that attempt to interfere in China’s internal affairs](#).”)

Whether the proposed U.S. legislation resonates in capitals around the world will depend on whether the bills pass, in what form, and with what degree of successful implementation. Insufficient follow-through will expose Washington to charges of hypocrisy and unreliability, while successful legislative and policy innovation will encourage friends to limit their own exposure to China in critical areas. Congress should therefore demand clear and specific action from the Administration in implementing any final legislation and regular public reports detailing compliance with its requirements.

Conclusion

As the bills approached the conference process, Beijing urged Washington to forsake competing, stop seeing China as an “[imaginary enemy](#)” and instead revert to “[win-win](#)” cooperation. This was pitched as the way to “mutual benefit,” but Beijing’s message came with a warning to “[carefully consider the major changes unseen in a century and truly consider where the U.S. is](#)

[going.](#)” In Beijing’s jargon, the “[major changes unseen in a century](#)” include China’s rise to dominance and the eclipse of U.S. power.

Rather than take Beijing’s barbed advice to pursue futile visions of cooperation, U.S. lawmakers and policymakers must adapt U.S. strategy to ensure that an era of PRC dominance never arrives.

To that end, in addition to sharpening the pending legislation, the United States will have to tackle various challenges that these draft bills neglect to address.

One such challenge is developing the expertise necessary to guide prudent U.S. strategy is one such challenge. The United States suffers from a dearth of competitively-minded China specialists able to devise means to counter CCP policy and doctrine, defeat Beijing’s global diplomatic initiatives, and arrest the flow of U.S. technology, capital, and data to China.

The Senate bill contains no funding for U.S. students to study Mandarin. The House bill at least authorizes \$10 million annually for the study of languages spoken in contemporary China, including Mandarin, Cantonese, Tibetan, Uyghur, and Mongolian (via a fund named for the late Chinese dissident and Nobel Peace laureate Liu Xiaobo). But while the authorization language specifies the importance of reaching trainees from historically under-served communities, there is no preference assigned to people committed to, or already engaged in, government service. Ramping up America’s China expertise is essential to upgrading our competitive posture and should thus be a legislative priority.

Another challenge requiring legislative attention is deterring aggression against Taiwan. These draft bills cite the need to bolster Taiwan’s international position but not its military defenses. In theory, the bills’ spending to reduce U.S. semiconductor dependence on Taiwan may make the island a less appealing target for Beijing, but the war in Ukraine shows the need to take the Taiwan invasion threat seriously and act across the diplomatic, military, and economic fronts. In a [previous FAL report](#) on Principles for China Competition in Light of the Ukraine War, we outlined some valuable Taiwan-related measures and encourage lawmakers to focus on Taiwan through other vehicles as well, including the upcoming National Defense Authorization Act.

This paper is a product of the Forum for American Leadership’s Asia Working Group.

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