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## Biden Says Inflation Reduction Act Can Be “Tweaked”

There are “tweaks” that can be made to provisions in the Inflation Reduction Act that have upset US allies in Europe and Asia, President Biden told reporters Thursday at a joint press conference with French President Macron. US trading partners, including Mr. Macron, are complaining in particular that a tax credit for US-made electric vehicles in the IRA put their manufacturers at a competitive disadvantage.

President Biden said the United States “makes no apology” for passing a law aimed in part at making US industries more competitive. But he added that there was no intention to disadvantage US allies. “So, there's tweaks that we can make that can fundamentally make it easier for European countries to participate and/or be on their own. But that is something that is a matter to be worked out,” he said. “I never intended to exclude folks who were cooperating with us. That was not the intention.” The aim was to make sure the United States is no longer reliant on China for key technologies, he said.

### Synchronized Policies

President Macron said he understood there was an unintended consequence from the legislation for his and other countries, expressing confidence that it can be sorted out. “So, France simply did not come to ask for an exemption or another for our economy but simply to discuss the consequences of this legislation.” The United States and Europe need to “resynchronize” their industrial policies, President Macron suggested. “So, we will work on the technical elements to make sure that there is no domino effect on ongoing projects in Europe. We want to succeed together, not one against the other.”

The [Joint Statement](#) released after the meeting included commitments to “an open and rules-based multilateral trading system, with a modernized WTO at its core,” as well as a nod to the Mineral Security Partnership and the Partnership for Global Infrastructure and Investment...They look forward to the work of the U.S.-EU Taskforce on the Inflation Reduction Act to further strengthen the U.S.-EU partnership on clean energy and climate through mutually beneficial ways.”

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## Raimondo Calls for Strategic Export Controls in MIT Speech

The United States needs to be more strategic and less reactive in its use of export controls, Commerce Secretary Gina Raimondo said yesterday in a major speech on US-China relations. “For too long, US export controls strategy was reactive,” she told the audience at an event sponsored by the Massachusetts Institute of Technology marking 50 years since China’s opening to the West. “We need to be more strategic and more targeted, with a laser focus always on protecting our national security,” she continued.

The United States must protect its advantage and take the lead against China in three advanced technologies sectors – computing-related technologies, including microelectronics, quantum information systems and artificial intelligence; second, biotechnologies and biomanufacturing and third, clean energy technologies.

“We will continue to take action to protect our advantage and maintain as large a lead as possible in these foundational technologies,” Ms. Raimondo said. “We are moving aggressively to reform our current capabilities and create new ones to accomplish this goal. Together with the private sector, we are going to bolster our system of export controls, enhance our investment screening regimes, strengthen our supply chain resiliency, and develop innovative solutions to counter China’s economic coercion and human rights abuses.”

### Challenge to National Security

Beijing poses a set of growing challenges to US national security by deploying its military in ways that undermine security and the free flow of global trade, she said. China “dominates the manufacturing of many critical materials and goods and has exploited other economies’ dependence on its market for political coercion. It also seeks to dominate certain advanced technology sectors, while using many of those technologies to advance its military modernization and undermine fundamental human rights at home and abroad.”

The Administration is countering China by “redoubling our efforts to safeguard our core technologies by strategically and continuously updating our export control policies and investment screening frameworks,” the Commerce chief stated. She pointed to recent new export controls aimed at limiting China’s ability to acquire US advanced technology and new guidance to the Committee on Foreign Investment in the United States to direct a focus on certain critical new risk factors when evaluating potential inbound investment, such as technological leadership, supply chain dependency and foreign company access to personal data.

### Not Seeking Decoupling

At the same time, Ms. Raimondo stressed that the United States is not seeking an economic decoupling from China, which is its third largest export market. Instead, Washington wants to make the bilateral relationship right “by protecting and also actively promoting our economic interests.”

The Administration wants “to promote trade and investment in areas that do not threaten our core economic and national security interests or human rights values,” she said. “Annual trade between our two countries has grown exponentially from \$4.7 billion in 1972 to more than \$750 billion today. This trade provides revenues for American companies, jobs for American workers, and connectivity with the Chinese people.”

## Commerce Finds in Solar Panel Dispute

The US. Department of Commerce made an initial determination on Friday that certain solar cell imports from Cambodia, Malaysia, Thailand and Vietnam circumvented U.S. tariffs on Chinese-made solar modules. Commerce preliminarily found that four of the eight companies being investigated are attempting to bypass U.S. duties by doing minor processing in one of the Southeast Asian countries before shipping to the United States.

Such actions amount to an effort to evade the existing antidumping duty (AD) and countervailing duty (CVD) orders on solar cells and modules from the PRC. These findings are preliminary, and as a next step, Commerce will conduct in-person audits in the coming months to verify the information that was the basis of its finding, and to allow comment on Commerce's finding. A final determination, is scheduled for May 1, 2023.

Presidential Proclamation issued on June 6, 2022, provides that **duties will not be collected** on any solar module and cell imports from these four countries until June 2024, unless parties cannot certify that the imports will not be consumed in the U.S. market within six months of the entry date. [[access.trade.gov](https://www.access.trade.gov) case number A-570-979]

## WTO Budget Hike Rejected

World Trade Organization Director-General Ngozi Okonjo-Iweala yesterday seems to have suffered another setback after major industrialized and some developing countries rejected her budget proposal that would increase the trade body's budget from CHF 197.2 million to CHF 212.45 million in 2023, WTD has learned.

At a meeting of the WTO's Committee on Budget, Finance, and Administration yesterday, the major budget-providers like the United States, several members of the European Union and some other members continued with their frosty response against Ms. Okonjo-Iweala's budget proposal, said people familiar with the development.

With repeated rejections of the much-criticized budget proposal since October, there is no progress on the issue, said a person who asked not to be quoted.

The DG may have had some success in the negotiations, but on her budget proposal major members are not budging in their continued opposition to an increase at this juncture, the person said.

Another participant maintained that there is "long, long way to go"— particularly at a time when the world economy is in doldrums.

The DG went on to tout her budget proposal yesterday at a townhall meeting with staff. She is understood to have said that "I am not the one to leave this battle" even for the annual budget. She claimed success for choosing five new directors from outside with 50-50 gender considerations, including the new director for the Trade Negotiations Committee, Santiago Wills, who was earlier the trade envoy of Colombia, and chair of the fisheries negotiations. "I am proud to say that, of the six posts [for directors], we have managed a 50-50 gender balance – three women and three men." (*Geneva via Washington Trade Daily*)

## Bipartisan Rancor Persists on Trade Policy

Senate Finance Committee Chair Ron Wyden, D-Ore., Ranking Member Mike Crapo, R-Idaho, and 19 bipartisan members raised Constitutional concerns about the process to approve and implement the proposed Indo-Pacific Economic Framework for Prosperity (IPEF), as well as the need for the administration to increase consultation and transparency. In a [letter to the President](#) the Senators said they have Constitutional concerns about the Administration's apparent position that the IPEF will not require Congressional approval, even though it includes trade provisions.

"There is no question that comprehensive free trade agreements that include reciprocal tariff reductions and dispute resolution mechanisms must be approved and implemented by Congress," the Senators wrote. "However, there appears to be a misunderstanding as to whether an agreement like IPEF, which aims to regulate foreign commerce and reshape international trade flows, requires similar approval. It does."

## EU – Scheme to Spend Russian Funds to Rebuild Ukraine

The European Commission is [proposing](#) to create a new structure to manage frozen and immobilized public Russian assets, invest them and use the proceeds for Ukraine.

The announcement includes measures to ensure accountability for war crimes. Russia does not accept the jurisdiction of the International Criminal Court (ICC), the customary venue. This means that, as things stand, the crime of aggression, which is a crime committed by the highest political and military leadership, cannot be prosecuted by the ICC.

"Russia must pay for its horrific crimes. We will work with the ICC and help set up a specialized court to try Russia's crimes. With our partners, we will make sure that Russia pays for the devastation it caused, with the frozen funds of oligarchs and assets of its central bank," said EC President **Ursula von der Leyen** in announcing the scheme.

**A similar bill introduced in the US Senate**, S. 3838: The Asset Seizure for Ukraine Reconstruction Act was introduced in March by Sen. Sheldon Whitehouse (D-Rhode Island). While the house version passed in April, the Senate version has languished. The U.S. bill does not suggest that those whose assets are seized must be linked to or convicted of a crime. The Biden administration shall "determine the constitutional mechanisms through which the President can take steps to seize and confiscate assets under the jurisdiction of the United States" of any foreign person on whom the president has imposed sanctions due to their links to Putin's regime. That pesky Fourth Amendment...

## Team Telecom Nixes Cuba Link

The Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector, aka "Team Telecom" has [recommended](#) that the Federal Communications Commission deny a 2018 application by management of the ARCOS-1 Cable System to add a new landing station in Cojimar, Cuba.

“The United States supports an open, interoperable, secure, and reliable internet around the world, including in Cuba. Unfortunately, the Cuban government does not share that view,” said **Assistant Attorney General Matthew G. Olsen** of the Justice Department’s National Security Division. “As long as the Government of Cuba poses a counterintelligence threat to the United States, and partners with others who do the same, the risks to our critical infrastructure are simply too great.”

As submitted to the FCC, the ARCOS-1 Cable System application would have allowed for the only direct, commercial subsea cable connection between the United States and Cuba. This raised national security concerns, as the cable-landing system in Cuba would be owned and controlled by Cuba’s state-owned telecommunications monopoly, Empresa de Telecomunicaciones de Cuba S.A. (ETECSA). The Government of Cuba – which the United States recognizes as authoritarian and a foreign adversary of the United States – could access sensitive U.S. data traversing the new cable segment through its control of ETECSA.

There is an existing cable between Florida and the U.S. Guantanamo Bay Naval Base (the GTMO-1 cable system), and a cable from Guantanamo Bay to Puerto Rico (the GTMO-PR cable system). The Americas Region Caribbean Optical-Ring System (ARCOS-1) is a 8,700 km submarine cable system connecting 24 landing points in 15 countries, including the United States, the Bahamas, the Turks and Caicos Islands, the Dominican Republic, Puerto Rico, Curacao, Venezuela, Colombia, Panama, Costa Rica, Nicaragua, Honduras, Guatemala, Belize, and Mexico.

ARCOS-1 USA and A.SurNet hold 96% of the voting and ownership interests in the ARCOS-1 cable system, with the remaining ownership held by 18 international carriers. A.SurNet owns and operates the ARCOS-1 cable landing station in North Miami Beach, Florida. ARCOS-1 USA and A.SurNet are owned by Liberty Latin America, spun off from Liberty Global in 2018.

**Earlier this month Team Telecom indicated “no objection”** to the leveraged buyout of television news producer Tegna by Caymans-registered Standard General, despite [entreaties](#) from the Communications Workers of America News Guild.

## Iran Exports: Up to 20 Years for Nozzle Scheme

Alabama man Ray Hunt, 69, was indicted on 15 counts of conspiracy, unlawful export, smuggling and submitting false or misleading export information associated with sales of flow control items to Iran.

Hunt, a naturalized US Citizen also known as Abdolrahman Hantoosh, is alleged to have conspired to export U.S.-origin parts used in the oil and gas industry, including control valves and oil tubing, through his Alabama-based company, Vega Tools LLC, to customers in Iran. The scheme transshipped the goods to Iran through Turkey and the UAE to evade U.S. sanctions.

The [\[indictment\]](#) reads like *how-not-to* for export compliance. In one case Hunt allegedly misstated the valuation on a shipment by a factor of ten, and in another instructed his forwarder to change the declared value from \$4,000 to \$2,465.74, just below the \$2,500 value threshold for an EEI filing requirement. “At no time did any person or entity apply for or obtain a required license from OFAC for the transactions alleged herein,” according to the charging documents.

**\*\* Briefs \*\***

**US EU TTC Meeting** On Monday, December 5, the United States will host the European Union for the third Trade and Technology Council (TTC) Ministerial Meeting at the University of Maryland, College Park. The U.S. delegation will be led by United States Secretary of State Antony J. Blinken, Secretary of Commerce Gina Raimondo, and U.S. Trade Representative Katherine Tai. The EU delegation will be led by European Commission Executive Vice President Valdis Dombrovskis and European Commission Executive Vice President Margrethe Vestager.

**WTO Rules Against Nickel Export Ban** The World Trade Organization confirmed that Indonesia's export ban and domestic processing requirement on nickel ore violates WTO rules. The panel upheld all EU claims against Indonesia. It found that Indonesia's export ban and domestic processing requirement on nickel ore, which is used in the production of stainless steel, are inconsistent with the WTO's prohibition of export prohibitions and restrictions. The panel also confirmed that the Indonesian measures do not fall under the exemption for prohibitions or restrictions temporarily applied to prevent or relieve critical shortages of products essential to Indonesia and found that the measures are not justified by the exception for measures necessary to secure compliance with relevant laws and regulations

**OFAC / DPRK Officials Sanctioned** OFAC sanctioned three individuals December 1 for being officials of the Workers' Party of Korea (WPK). These individuals have provided support to the Democratic People's Republic of Korea's (DPRK) development of weapons of mass destruction (WMD) and ballistic missiles. OFAC's action follows the European Union's designation of Jon Il Ho, Yu Jin, and Kim Su Gil in April as persons responsible for the DPRK's WMD or ballistic missile programs.

**OFAC / Hizballah Accountants Sanctioned** OFAC took action December 1 against two individuals and two companies based in Lebanon for providing financial services to Hizballah, along with an additional individual involved in facilitating weapons procurement for Hizballah. Al-Khobara for Accounting, Auditing, and Studies provides accounting services to U.S.-designated AQAH, Hizballah's quasi-financial institution. Auditors for Accounting and Auditing provides financial services to Hizballah's Central Finance Unit.

**CBP / ACE Test** U.S. Customs and Border Protection (CBP) will conduct a National Customs Automation Program test regarding the electronic transmission of certain unique entity identifiers through the Automated Commercial Environment (ACE). This voluntary test, referred to as the "Global Business Identifier Evaluative Proof of Concept" (GBI EPOC), is for participation by entry filers (i.e., importers of record and licensed customs brokers) for merchandise imported into the United States. CBP invites importers of record and licensed customs brokers to participate in the test, Notice provides a description of the test, sets forth the criteria for participation, and invites public comments on all aspects of the test. [[87 FR 74157](#)]

**EPA / SNURS Snares Chemical Importers** The US Environmental Protection Agency is issuing significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for chemical substances that were the subject of premanufacture notices (PMNs) and a Microbial Commercial Activity Notice (MCAN). The SNURs require persons who intend to manufacture (defined by statute to include import) or process any of these chemical substances for an activity that is designated as a significant new use by this rule to notify EPA at least 90 days before commencing that activity. [[87 FR 73941](#)]

**EU – Proposal to Criminalize Sanctions Violations** The European Commission Friday released a proposal to harmonize criminal offences and penalties for the violation of EU restrictive measures. Depending on the offence, individual persons could be liable to a maximum penalty of at least five years in prison; companies could be liable to penalties of no less than 5% of the total worldwide turnover of the legal person (company) in the business year preceding the fining decision. The proposal will now be discussed by the European Parliament and the Council as part of the ordinary co-legislative procedure.

**EU – Oil Cap Wrangling.** Following the publication last week of OFAC’s guidance on imposing a price cap on Russian oil exports, on Friday the European Commission reached agreement on a similar scheme. *Bloomberg* reports the Poland and the Baltic states secured additional conditions aimed at punishing Moscow, including a mechanism that would allow for revisions of the price every two months and a provision that any resetting of the cap should leave it at least 5% below average market rates.

**EU – Ownership Registers Blocked.** Public access to beneficial ownership data “constitutes a serious interference with the fundamental rights to respect for private life and to the protection of personal data, according to the *Court of Justice of the European Union*.

The ruling, prompted by a Luxembourg case, has prompted member states to begin removing public access, setting back anti-money laundering compliance efforts, according to the *Financial Times*. “It’s a kleptocrat’s dream,” tweeted Bill Browder. “The damage this will do to those of us fighting corruption will be enormous.” (“Erwin Rommel on Twitter: “RT @Billbrowder: This is an absolutely ...”)

**UK’s Second Economic Crime Bill** is at odds with the EU decision. [Hogan Lovells reminds clients](#) “An existing overseas entity (and its officers) who owns land but has failed to register at Companies House before 31 January 2023, will commit an offence, potentially punishable by imprisonment or a fine or both.”

**UK SRA Sanctions Regime Guidance** Solicitors Regulation Authority has published [guidance](#) on the UK Sanctions Regime for SRA-regulated firms, solicitors, registered European lawyers and registered foreign lawyers.

“The sanctions regime applies to all firms that provide legal services, not just those that are captured by the anti-money laundering regulations. So some firms will need to take a closer look at, for example, implementing effective client due diligence measures,” said SRA Chief Executive Paul Philip in the release.

SRA has also published a [warning notice](#) to the legal profession about getting involved in abusive litigation aimed at silencing legitimate critics, known as strategic lawsuits against public participation (SLAPPs).

**AUECO Conference Call for Speakers** The Impact of Export Controls on Higher Education and Scientific Research conference, will be hosted by Purdue University and the Association of University Export Control Officers at the JW Marriott Indianapolis Hotel on May 8-11, 2023. The conference will be preceded by a day of workshops and followed by the AUECO Membership Meeting on now accepting proposal submissions. Sessions on topics regarding export control and universities are welcome. Info from [exportcontrols@purdue.edu](mailto:exportcontrols@purdue.edu) by December 20<sup>th</sup>.

**BIS - Japan-U.S. Commercial and Industrial Partnership Export Control Working Group** Comments sought regarding areas and priorities for U.S. and Japan export control cooperation to help inform the work of the Japan-U.S. Commercial and Industrial Partnership (JUCIP) Export Control Working Group.

Comments should address ways in which existing U.S. and/or Japanese dual-use export control policies and practices may be more transparent, more efficient and effective, and more convergent, including in identifying and controlling emerging or foundational technologies, and in better facilitating research collaboration between Japan and U.S. research organizations.

Comments providing specific and concrete examples where further convergence in U.S. and Japanese export control practices and policies could enhance international security and support a global level-playing field and joint technology development and innovation, would be particularly helpful. Comments must be received by BIS January 17, 2023. The regulations.gov ID for this rule is BIS-2022-0029 [\[87 FR 73748\]](#)

### \*\*\* Calendar \*\*\*

#### **DDTC and BIS - Modernizing Technology in Support of Collaboration**

Join **Karen Wrege**, Directorate of Defense Trade Controls (DDTC) **Annie Pearson**, **Michael Palmer** and **Alek-CheMponde**, (Webinar) Bureau of Industry and Security (BIS) December 8, at 2:00pm (EST). [\[Register\]](#)

**ITA Advisory Committee on Supply Chain Competitiveness** [\[87 FR 71579\]](#). The Committee advises the Secretary on the necessary elements of a comprehensive policy approach to supply chain competitiveness. ITA will accept nominations received by **5 p.m. on December 8, 2022**, for membership on the Committee until the current two-year charter term ends November 9, 2023.

**Australia Hosting First IPEF Round.** Australia will be hosting the first round of in-person negotiating round for the Indo-Pacific Economic Framework December 10-15 in Brisbane. This will be the first time that negotiators sit down to hammer out the details of the four pillars that make up IPEF – trade, supply chains, the clean economy and anti-corruption.

**State Dept - Advisory Committee on International Law** will meet on Monday, December 12, 2022, from 9:00 a.m. to 3:15 p.m. at the George Washington University Law School, Michael K. Young Faculty Conference Center, 716 20th St. NW, 5th Floor, Washington, DC. Members of the public who wish to attend should contact the Office of the Legal Adviser by December 8 at [rangchitm@state.gov](mailto:rangchitm@state.gov) or (202) 485-6590



**BIS / RPTAC - Regulations and Procedures Technical Advisory Committee** will meet December 13, 2022, 9 a.m., Room 3884, in the Herbert C. Hoover Building. In addition to regular program, presentation: John Cooney, SEMI and: Jimmy Goodrich, Semiconductor Industry Association (SIA). To join the conference, submit inquiries to Ms. Yvette Springer at [Yvette.Springer@bis.doc.gov](mailto:Yvette.Springer@bis.doc.gov) no later than December 6, 2022. [[87 FR 73749](#)]

**Indo-Pacific Business Forum** The United States government, in partnership with the Government of Japan, is sponsoring the Fifth Indo-Pacific Business Forum (IPBF) on January 12, 2023. The hybrid event will feature an in-person program in Tokyo and a robust virtual component timed to allow meaningful participation from across the Indo-Pacific region. For further information, please visit the Indo-Pacific Business Forum [website](#).

**Kharon Global Sanctions Summit 2023** February 9, London. Speakers to include **Rich Nephew**, State Department Coordinator on Global Corruption, **Brett Freedman**, Justice Department Chief of Staff, **Huw Walters**, UK MoD Director Economic & Investment Security, and **Sam Zell**, Founder and Chairman, Equity Group Investments. Yes, [The Grave Dancer](#). \$895 / £730 [[Registration](#)]

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