

## Congress versus China: Examining Congressional Policy on China and the Aftermath of the 2022 Midterm Election

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No. 250 December 15, 2022

#### Overview

As the dust settles from what has been a close and hard-fought midterm election, it has become clear that Congress is headed for two years of divided leadership and a higher likelihood for gridlock. While Democrats have managed to hang onto their slim majority in the Senate, Republicans met electoral expectations by flipping the House of Representatives to Republican control, if ever so slightly.

Presumed incoming Speaker Kevin McCarthy will be governing the House with the same slim majority Speaker Nancy Pelosi and the Democrats managed over the past two years. However, while Speaker Pelosi has proven herself capable of wielding power and influence to keep her members in line, Leader McCarthy will face the daunting task of having to unite a party spanning moderate members from districts in blue states to more conservative members who have already demonstrated clear animosity and belligerence toward his leadership.

As you read this commentary you may be asking, how does this concern Japan? The reality is that change of leadership in the Legislative Branch, even in just one chamber, can have far-reaching consequences for U.S. policy. As the branch that debates, enacts, and funds U.S. policies and programs, control of Congress is immensely important. It determines the chairs of committees and their hearing agendas, what bills will be advanced and brought up for votes, and has a direct bearing on how the Legislative Branch will work with the Executive Branch. Perhaps most importantly for Japan at this moment, the results of the midterm election will also play a significant role in determining U.S. policy toward China and the Indo-Pacific for the next two years.

Overall, a divided Congress with Republican control of the House will mean a more hawkish approach to China, even more than the past two years of total Democratic control. House Republicans will generally focus on strengthening U.S. security and technological competitiveness while pursuing targeted economic decoupling with China, all of which will have significant impacts on funding levels for the U.S. military and restrictions on supply chains and research. At the same time, there will also be a greater emphasis on fiscal conservatism in the House, which may limit the funding and creation of initiatives in areas related to competition with China.

As the last two years have shown, China as a legislative issue has been a bipartisan concern that has spurred sustained and effective cooperation between political leaders from both parties. While never perfect, bipartisan cooperation on China policy saw impressive leaps forward in boosting U.S. competitiveness, including the passage of the CHIPS and Science Act and the Uyghur Forced Labor Prevention Act.

However, just as China competition as an issue has proven to be a political winner, it could also be the source of future gridlock. As the 2024 election approaches, the incentive for each party to demonstrate their toughness against the Chinese Communist Party (CCP) will grow, as will the temptation to paint their opponent as being weak on or beholden to China. This could lead to legislative gridlock to prevent the other party from being seen as effective, or lead to a

legislative arms race on China-related policy that increasingly seeks to punish Beijing without careful consideration for broader policy implications. Americans have already seen the latter play out in midterm election races across the country.

While strong and immediate measures are necessary to enable effective competition with China and preserve U.S. national security and economic interests, political competition over China has dubious policy benefits and seriously endangers the long-term interests of the U.S. and its allies and partners. Leaders in both parties must continue to ensure responsible policymaking on China seeks to empower the U.S. and its network of allies and partners to compete effectively, not enact harsh punishments on Beijing out of anger or for electoral gain.

The next two years promises to be a period of change and uncertainty for U.S.-China relations and the stability of the Indo-Pacific region. Let's dive further into how new leadership in Congress will affect the following issues related to U.S.-China competition.

## Taiwan

No single U.S. partner (with the possible exception of Ukraine) may command as much attention over the next two years compared to Taiwan. While Republicans assume power in the House and are readying to pressure President Biden to implement a more assertive defense of Taiwan, China is simultaneously preparing to leverage its economic and military strength to force Taipei's acceptance of Chinese rule within the decade. As such, tensions will likely rise even further over the next two years.

It is important to note that the main actor seeking to upend the status quo and peaceful cross strait ties is China, not the United States. However, rather than seek Beijing's approval through rapprochement, congressional Republicans will likely embrace measures that seek to reinforce Taiwan's defense and increase U.S. military capabilities while ramping up actions to strengthen unofficial diplomatic ties. These measures will likely see a healthy level of Democratic support, which have found even more bipartisan appeal following Speaker Pelosi's visit to Taiwan and Russia's unprovoked invasion of Ukraine with its implications for Taiwan's security.

Further, a Republican-led House may be more forceful in pressuring the U.S. Trade Representative (USTR) to move forward with negotiating a bilateral Free Trade Agreement (FTA) with Taiwan. There are high hopes from Members of Congress that an FTA would not only strengthen U.S.-Taiwan deterrence against China, but also lead to other nations establishing their own FTAs with Taiwan, such as Japan and Australia.

Earlier this year, USTR initiated Trade and Investment Framework Agreement (TIFA) talks with Taiwan, largely to silence concerns and soothe frustration from Members of Congress after Taiwan was excluded from membership in the Indo-Pacific Economic Framework (IPEF). The initial groundwork has been laid for Taiwan FTA negotiations, but it remains to be seen whether it will become a reality next Congress given past USTR policy on Taiwan and the likelihood that Republicans may be wary of supporting new global trade agreements shortly before a presidential election, especially one that will feature former President Trump, who has a history of skepticism toward free trade.

## Supply Chains and Trade

Another major focus of the next Congress will be on securing supply chains and targeted economic decoupling. The COVID-19 pandemic exposed the overreliance on China many countries have in their supply chains, including the U.S. Policymakers have become increasingly concerned that this overreliance could be exploited by the Chinese Communist Party as a form of economic coercion targeting U.S. businesses and private interests to obtain sensitive technology, larger profits, and political objectives. These concerns are justified, as China continues to be the most notorious thief of

intellectual property and research in the world and is well-known for its utilization of civil-military fusion for state interests.

Whether under the banner of “economic decoupling” or “Made in America,” Congress will continue to look to friend-shore, nearshore, and onshore its supply chains and production back to the U.S. and trusted partners. Some of these actions will take the form of export controls, domestic production requirements for government procurement, and expanding the authority of the Committee on Foreign Investment in the United States (CFIUS), which reviews the national security implications of foreign investments in the U.S. Under Republican House Leadership, the Bureau of Industry and Security within the Department of Commerce, which oversees CFIUS, could come under greater pressure to review and restrict outbound U.S. investments as well.

Backlash from the business community will likely intensify, arguing that policymakers are going too far and harming American economic competitiveness by forcing very expensive and painful relocations of production centers and supply chain networks to counter manageable, unclear, or nonexistent threats to national security. However, while Republicans are known for having a traditionally warm relationship with the private sector, Republican politicians have shown they are willing to go on the offensive against business interests and their lobbyists when there are clear risks to national security stemming from China. This trend will likely continue as they assume the majority in the House.

Further, progress on negotiating new free trade agreements or related provisions over the next two years with the cooperation of Congress looks to be unlikely at best. Free trade remains an unpopular subject for many Democratic and Republican base voters, which makes action on trade policy in Congress that much more difficult to sell to constituents. To further reinforce this point, even under unified Democratic control of Congress and the White House, congressional authority lapsed both for Trade Promotion Authority (authority granted by Congress to allow the President to fast-track the negotiation of trade agreements) and the Generalized System of preferences, or GSP (a trade preference program that promotes economic development by eliminating duties on thousands of products imported from over 100 designated countries).

Proponents of trade strategy over the past two years under President Biden may counter the above points by praising the introduction of IPEF, an economic initiative launched by the U.S. and thirteen other nations to discuss issues related to trade as a precursor for a formal trade agreement. However, this agreement is still viewed by many in the Indo-Pacific region as yet another insufficient trade initiative from the U.S., and without market access offered as part of the agreement. At the same time, USTR in both the Trump and Biden Administrations has been unwilling to consider reentry to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), formerly the Trans-Pacific Partnership (TPP), which the U.S. led until its withdrawal in 2017 and has been informally led by Japan ever since.

As mentioned earlier, the one exception to congressional aversion to trade may be a bilateral FTA with Taiwan, an initiative that has benefited from years of strong bipartisan support and, more recently, a renewed sense of urgency following China’s increasing military aggressiveness toward Taiwan.

## Security

One significant divergence from previous Democratic leadership will be an increased focus on hard power and supporting military buildup under House Republican leadership. There has been a significant level of bipartisan consensus over the past two years on the need to counter China militarily, but Republican leaders will want to see this commitment go further and leverage increased resources toward a stronger U.S. military in the Indo-Pacific.

Republican leaders will have their work cut out for them in addressing a variety of ongoing challenges that threaten short and long-term competitiveness, including an aging fleet and overwhelmed shipyards, a decreased weapons

supply due to the war in Ukraine and a backlog of weapons transfers to allies and partners—including Taiwan—and wariness from the American public toward getting involved in another overseas military conflict.

Importantly, some in the Republican Party will continue to argue that support for Ukraine must be gradually drawn down in order to allocate more funding and resources for domestic issues such as immigration and crime. Further, even more opposition is likely in response to calls from Ukraine for a Marshall Plan-style economic package from the U.S. and Europe. Importantly though, these members still do not represent the majority bipartisan consensus on the need to continue military support for Ukraine, and many of those same members are more likely to support security assistance for Taiwan and resources to counter the PLA compared to Russian aggression in Ukraine.

## Research and Innovation

Support for domestic research and innovation will also continue into the next Congress, as initiatives in this space have already received widespread bipartisan support. However, the challenges to American competitiveness in this field are daunting. Chinese investment in domestic research and innovation is quickly outpacing the U.S. while the number of Chinese students choosing to study in the U.S. has dropped considerably over the past few years. Increasingly, Chinese universities and research institutions are closing in on the U.S. in terms of quality and quantity.

In response to these concerns, Congress passed the CHIPS and Science Act of 2022, which poured tens of billions of dollars into the domestic research and innovation base, the largest single investment of its kind in U.S. history. Congressional attention will continue to focus on boosting American competitiveness in research and innovation with Republicans focusing more of their action toward countering gains by China.

## Human Rights

Congress will leverage an even stronger campaign against China over the next two years on human rights issues. Bipartisan cooperation in this area will continue and focus on China's genocide in Xinjiang against the Uyghurs, continued crackdown on dissidents in Hong Kong, and forced organ harvesting of Falun Gong practitioners, among other egregious human rights violations. These policy intentions will likely manifest themselves in the introduction of new sanctions legislation, though there is a growing recognition in Congress of the need to employ other tactics in addressing human rights issues in China beyond a sanctions strategy that has seen only a limited impact to date.

## Climate Change

Climate change is perhaps one of the few remaining areas for potential U.S.-China cooperation today, with the U.S. and much of the world viewing it as an existential threat to every nation. Despite efforts by the U.S. to engage China—the world's largest carbon emitter—in climate cooperation separate from great power competition, the CCP still largely refuses to participate with the U.S. and other international organizations in this field. While this will remain a priority for the Biden Administration and many Democrats, House Republicans will approach climate cooperation with China with skepticism and reservations, and will be resistant to offering China any concessions in other areas of competition, such as trade, human rights, or Taiwan, in exchange for untrustworthy commitments and declarations.

## Allies and Partners

Finally, alliance structures will continue to receive strong bipartisan support under both parties in Congress, including U.S. bilateral alliances in the Indo-Pacific, NATO, the Quad, and AUKUS, among others. In both political parties, there is a

shared recognition that cooperation with allies and partners is necessary to ensure a secure and prosperous Indo-Pacific region and counter aggression from China.

While allies and partners of the U.S. can take heart in knowing that Washington will continue to value their cooperation, they should also note that U.S. policymakers are viewing the world in increasingly competitive terms. Leveraging effective competition with China will remain the largest foreign policy and security challenge for the U.S. for the foreseeable future, and U.S. allies and partners would be wise to ensure they manage a relationship with Washington that avoids any perception that they are “choosing” China over the U.S.

## Conclusion

The next two years of China policy from Congress promises to be hawkish, uncompromising, and ambitious, if those policies actually manage to pass in a closely-divided House and Senate controlled by opposing parties. As the U.S. and China continue to navigate a period of “maximum danger,” Japan and other U.S. allies and partners would be wise to engage with Congress more proactively and strategically. As the branch of government responsible for legislating long-term policies and conducting oversight on the Executive Branch, Congress plays an essential role in the formulation and implementation of competition-related policies.

As 2022 Midterm Election brings new leaders to power and new Members of Congress to Washington, there exists a golden opportunity to create new relationships with incoming members and staff who will be writing and debating consequential legislation that will carry implications for the Indo-Pacific for years to come. Japan should dedicate more people and resources to understanding this important U.S. institution and ensure its interests and priorities are clearly communicated to congressional leaders and power players. As the most important U.S. ally for countering the CCP in Asia, Japan has an opportunity to evolve from managing a reactive relationship to becoming a proactive partner in guaranteeing peace and prosperity in the Indo-Pacific region.

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profile

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