US Multilateral Trade and Policy Developments

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Trade Policy Developments

US Holds African Growth and Opportunity Act Forum While Weighing Renewal, Reform, and Membership

The 20th United States-Sub-Saharan Africa Trade and Economic Cooperation Forum took place from November 3-4, 2023, in Johannesburg, South Africa. Trade ministers from 32 of the African Growth and Opportunity Act (AGOA) eligible countries attended the Forum, which was co-hosted by South Africa's Minister of Trade, Industry, and Competition Ebrahim Patel. The leaders discussed supply chain diversification, potential reforms to AGOA, increasing utilization, gender inclusion, and reauthorization of the program. Leaders also met bilaterally on the sidelines of the forum to discuss ongoing market access concerns, and the private sector held a trade exposition.

This year's Forum comes as lobbying for an early renewal of AGOA is accelerating. African leaders, members of the US Congress, and President Biden have all called for a focus on renewing the program before it expires in 2025, statements that were underlined in speeches at the Forum. Congressional attention on the program is also an opportunity to explore changes to AGOA that could increase its value for participating countries, which some members of Congress and the executive branch are interested in exploring.

Congress established AGOA in 2000 to go beyond the standard tariff benefits of the Generalized System of Preferences (GSP) and create a unique preferential program for Sub-Saharan Africa. AGOA added about 1,800 additional tariff lines for up to 49 qualifying Sub-Saharan African countries (35 were active beneficiaries in 2023[1]) and more favorable rules of origin for textiles, on top of the 5,100 tariff lines already covered by the GSP. Most of the tariff lines not covered by either program are already effectively tariff-free under World Trade Organization commitments. The US Congress last renewed AGOA in 2015, and it is set to expire on September 30, 2025.

Beginning discussions for AGOA renewal

Learning from the repeated and lengthy expirations of GSP, AGOA's stakeholders have already begun pursuing renewal of AGOA and potential reforms to the program. Lawmakers have also begun moving on renewal in recent months, though they have not decided whether Congress should move ahead with a clean renewal or delay renewal to consider improvements to the program.

US review of AGOA's effectiveness

In April 2023, the US International Trade Commission (USITC) published a review of the economic impact of AGOA on beneficiary countries at the request of the House Ways and Means Committee.[2] The study found AGOA had only small overall economic benefits for the participating countries, though also noted the difficulty of studying the topic. The study found that most of the non-oil imports receiving AGOA benefits came from five AGOA members (*i.e.*, Ethiopia, Kenya, Lesotho, Madagascar, and South Africa), with other countries either trading little overall with the United States or specializing in products that are not covered by AGOA.

Apparel preferences have been the most successful, according to USITC, supporting the development of the sector in multiple countries and helping women enter the formal labor force. USITC cautions, however, that most of this industry depends on East Asian yarn mills and that there has been little progress building a local supply chain of textile inputs. One key challenge to developing higher value-added manufacturing that the report raised is limited infrastructure in most countries, including unreliable water, electricity, and transportation. The report argues, for example, that infrastructure challenges prevented beneficiary countries from taking advantage of AGOA's

[1] "AGOA Eligible and Ineligible Countries – 2023," accessible here: https://ustr.gov/sites/default/files/files/gsp/2023AGOA.pdf.

[2] "African Growth and Opportunity Act (AGOA): Program Usage, Trends, and Sectoral Highlights," April 17, 2023, USITC, accessible here: https://www.usitc.gov/press_room/news_release/2023/er0417_63816.htm.

preferences for chemicals. Rep. Richard Neal (D-MA), a member of the House Ways and Means Committee, noted that the report demonstrates "AGOA has not achieved all that we had hoped, and more work must be done to improve our economic relationships," highlighting congressional interest in improving the program.[3]

Efforts to reform AGOA

Seeking to reform AGOA during the renewal debate, Sen. Chris Coons (D-DE) has begun circulating a discussion draft of a bill, the "AGOA Renewal Act of 2023," that would both extend AGOA through 2041 and reform the program to make it more accessible for eligible countries.[4] The bill would allow inputs from African countries that would not otherwise qualify for AGOA to count towards AGOA value-added thresholds, ease the graduation process so countries do not lose eligibility until they have had high-income status for five years instead of the current one year, change eligibility reviews from being annual to triennial, eliminate the requirement that apparel shipments include a textile visa, and reduce the number of production verification visits that US Customs and Border Protection (CBP) must conduct. Sen. Coons expects these reforms would support African economic integration, give investors more certainty for establishing businesses, and reduce administrative burdens for traders and the US government.

Rep. Adrian Smith (R-NE), who chairs the House Ways & Means trade subcommittee, is also interested in exploring ways to improve the program. In a recent statement, Rep. Smith mentioned issues related to the COVID-19 pandemic, the economic rise of China, and the growth of the digital economy as reasons to consider reforms to the program. He noted that Congress' focus on renewal presents the best opportunity to pass any changes.

President Biden backed the reform effort in a November 1, 2023, statement, saying he "encourage[s] Congress to reauthorize AGOA in a timely fashion and to modernize this important Act for the economic opportunities of the coming decade."[5] Though he called for changing the law, the President took no position on what changes Congress should actually make. In welcoming delegates to the AGOA forum, United States Trade Representative (USTR) Katherine Tai raised the broad concepts of "improving utilization rates, exploring additional trade tools to complement our AGOA relationship, collaborating on the implementation of the AfCFTA [African Continental Free Trade Area], and better using the multilateral trading system for the benefit of underserved groups in each of our economies" as potential areas the administration is interested in addressing in AGOA's reauthorization.[6] She later added that the administration is also interested in developing a plan for how African countries could continue to engage with the United States after they graduate from AGOA.

Efforts to prioritize renewal

Other legislators (as well as African leaders) argue that Congress should prioritize fast renewal of the current preferences instead of debating reforms, amid concerns that a reform effort could stall renewal as it has with GSP. On October 26, 2023, 13 Senators of both parties sent a letter to the Senate's leadership calling for Congress to prioritize a quick renewal over reforms and to prioritize renewal bills on the Senate's legislative calendar.[7] The

[3] "U.S.-Africa duty free program has had mixed results -trade panel report," April 17, 2023, accessible here: https://www.reuters.com/world/africa/us-africa-duty-free-program-has-had-mixed-results-trade-panel-report-2023-04-17/.

[4] "Senator Coons releases draft of AGOA reauthorization act to deepen U.S.-Africa economic relationship," November 6, 2023, accessible here: https://www.coons.senate.gov/news/press-releases/senator-coons-releases-draft-of-agoa-reauthorization-act-to-deepen-us-africa-economic-relationship.

[5] "Statement from President Joe Biden on the African Growth and Opportunity Act (AGOA) Reauthorization," accessible here: https://www.whitehouse.gov/briefing-room/statements-releases/2023/11/01/statement-from-president-joe-biden-on-the-african-growth-and-opportunity-act-agoa-reauthorization/.

[6] "Remarks by Ambassador Katherine Tai at the Opening Ceremony of the 20th Africa Growth and Opportunity Act Forum," accessible here: https://www.ustr.gov/about-us/policy-offices/press-office/speeches-and-remarks/2023/november/remarks-ambassador-katherine-tai-opening-ceremony-20th-africa-growth-and-opportunity-act-forum.

[7] "Cassidy Joins Call to Renew AGOA to Combat Chinese and Russian Influence in Africa, Provide Certainty for U.S. Businesses," October 27, 2023, accessible here: https://www.cassidy.senate.gov/newsroom/press-releases/cassidy-joins-call-to-renew-agoa-to-combat-chinese-and-russian-influence-in-africa-provide-certainty-for-us-businesses.

leaders of the House Foreign Affairs Committee have also backed prioritizing a quick renewal. In a November 3, 2023, statement, Chairman Michael McCaul (R-TX) and Ranking Member Gregory W. Meeks (D-NY) said they are "are committed to working with our colleagues and our African partners to improve AGOA, but we believe the principal consideration must be ensuring a successful and timely reauthorization."[8]

To this end, Sen. John Kennedy (R-LA), one of the Senate letter's signers, introduced the "AGOA Extension Act of 2023" on September 27, 2023, proposing an immediate extension to the program without any modifications.[9] The bill would extend the program for 20 years (from September 30, 2025, to September 30, 2045), double the length of the last extension. The longer extension could provide investors with more confidence that planned businesses could benefit from the program's preferences. USITC's report on AGOA's effectiveness also highlighted this consideration, noting that uncertainty about the continuation of the program discourages importers from making sourcing decisions based on the tariff preferences.

Changes to qualifying countries for 2024

The United States also announced the results of the annual AGOA eligibility review on October 31, 2023, just ahead of the Forum.[10] This year, the United States re-admitted one country to the program and expelled four others. The eligibility changes will enter effect on January 1, 2024.

The United States suspended benefits for Gabon, Niger, the Central African Republic, and Uganda. USTR cited the coups in Gabon and Niger as their reason for removal, describing them as "unconstitutional changes in government." The Central African Republic and Uganda were removed for "gross violations of internationally recognized human rights." USTR will continue working with the four countries to determine benchmarks for improvement and eventual return to the program.

Mauritania was readmitted, with the Biden administration praising the country for making substantial progress on eliminating forced labor over the last five years. The United States revoked eligibility from Mauritania over a lack of progress in eliminating forced labor in 2019. In the 2022 AGOA implementation report, USTR praised Mauritania for recognizing its forced labor problems and acting to strengthen its judicial system, allowing protests and civil society groups to address slavery, and strengthening child labor laws.[11] USTR has however noted that slavery and other forms of forced labor and child labor remain a problem in the country, which has led some to question the decision to reinstate Mauritania's AGOA eligibility so soon.

AGOA's membership conditions are more extensive than those of GSP, requiring beneficiary countries to be making progress towards market economy reforms, political pluralism and rule of law, poverty reduction, human rights, and security, among others. Though these requirements are intended to encourage good governance, they also often lead to countries abruptly losing benefits and create uncertainty among investors. Most countries that have lost access to the program have done so for failing either the rule of law and political pluralism criteria or the human rights criteria. USITC's recent study on the program found that these losses of eligibility are harmful to a country's economic development and that investor uncertainty about future benefit losses may be reducing business investment, contributing to Sen. Coons' proposal to make the reviews less frequent.

[8] "McCaul, Meeks Support Reauthorization of AGOA," November 3, 2023, accessible here: https://foreignaffairs.house.gov/press-release/mccaul-meeks-support-reauthorization-of-agoa/.

[9] S.2952 - AGOA Extension Act of 2023, accessible here: https://www.congress.gov/bill/118th-congress/senate-bill/2952.

[10] "Statement from Ambassador Katherine Tai on the African Growth and Opportunity Act Eligibility Review," October 31, 2023, accessible here: https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/october/statement-ambassador-katherine-tai-african-growth-and-opportunity-act-eligibility-review.

[11] "2022 Biennial Report on the Implementation of the African Growth and Opportunity Act," accessible here: https://ustr.gov/sites/default/files/files/reports/2022/2022AGOAImplementationReport.pdf.

US Senator Introduces Bill for Greenhouse Gas Emissions-Based Tariff

US Senator Bill Cassidy (R-LA) introduced his long-awaited greenhouse gas (GHG) emissions-based tariff bill to the Senate on November 2, 2023.[12] The "Foreign Pollution Fee Act of 2023" would direct the United States to impose an import tariff that scales with the GHG emissions intensity of a covered product's manufacturing processes. Other countries would be able to avoid the tariff by adopting a common emissions tariff with the United States, creating a tariff club resembling the Global Arrangement on Sustainable Steel and Aluminum (GASSA), but on a larger scale. The bill excludes several non-market economies (NMEs), most notably China and Russia, from joining the emissions tariff club. In doing so, the bill would typically apply higher emissions-based tariffs on goods from those countries, having the effect of isolating them from the global manufacturing economy until they sufficiently lower the GHG intensity of their major manufacturing sectors. Sen. Cassidy described the bill to reporters as "Republican climate policy," claiming it would compel other countries to adopt tougher GHG emissions regulations without creating any new costs for US business and would protect US manufacturing from unfair foreign competition.

Overview of the bill

The core of the bill is a measure that imposes a tariff, called a "foreign pollution fee," that would scale in cost based on the emissions intensity of specified imported products' manufacturing processes. This tariff would enter effect 36 months after the enactment of the law, with an option of an additional 10-month extension. Countries would be able to escape coverage by either lowering their GHG emissions intensity to within 10% of the comparable US industry's emissions level or by adopting a similar emissions-based tariff system themselves. The bill focuses narrowly on the GHG emissions of other countries and does not contain any measures that would establish a domestic carbon price or expand domestic GHG emissions regulations.

The bill lists a broad range of goods that the tariff will cover at the US Harmonized Tariff Schedule (HTS) four- and six-digit levels. Most relate to fuels, green energy production, and industrial products. Products related to energy production and fuels (including green energy sources) are natural gas (HTS 2711.11-2711.21); crude oil (HTS 2709); refined petroleum (HTS 2710, 2712-2715, 2803, 2902.20, 2902.30, 2902.44); hydrogen, methanol, and ammonia (HTS 2814, 2804.10, 2905.11, 3102.10, 3102.30, or 3102.80); various minerals (HTS 2504, 2825.50, 3801.10, 2612.10, 2827.41, 7401-7404, 2804.69, 2833.24, 7406, 2820.10, 2836.91, 7501-7504, 2822.00-2844.10, 8105.20, 2825.20, 2844.20, 8105.30, 2825.40, 2844.30, 8111, and other minerals designated as "critical minerals" by the US Geological Survey); biofuels (HTS 2207.10, 2207.20, 3826); solar cells and panels (HTS 8541.42-8541.43, 8501.71-8501.80); lithium-ion batteries (HTS 8507.60); and wind turbines (HTS 8502.31). The other industrial products are aluminum (HTS 7601-7616); cement (HTS 2523, 6810, 6811, or 3824.50), glass (HTS 7001-7020); iron and steel (HTS 7201-7326); petrochemicals (HTS 2901 and 2711.14); plastics (HTS 3901-3926); and pulp and paper (HTS 4701-4707 or 4801-4813). Domestic manufacturers can also add new products to the tariff's coverage at the six-digit HTS level via petition, which would require at least 50% support from the domestic producers.

The bill defines "greenhouse gas" based on Section 98.6 of the Environmental Protection Agency's (EPA) regulations. The definition covers "carbon dioxide (CO2), methane (CH4), nitrous oxide (N2O), sulfur hexafluoride (SF6), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and other fluorinated greenhouse gases as defined in this section."[13]

Designing the tariff

[12] S. 3198 - "Foreign Pollution Fee Act of 2023," 118th Congress, accessible here: https://www.congress.gov/bill/118th-congress/senate-bill/3198/text.

[13] 40 CFR 98.6 "Greenhouse gas or GHG," accessible here: https://www.ecfr.gov/current/title-40/part-98/subpart-A#p-98.6(Greenhouse%20gas%20or%20GHG).

For countries that do not join the United States in establishing a common GHG emissions-based tariff, the bill would apply a variable, product-specific *ad valorem* tariff referred to as the “variable charge.” US Customs and Border Protection (CBP) would collect the payments, as with other duty collections, and the Department of the Treasury (Treasury) would supervise the variable charge rate determinations. USTR and Treasury would be responsible for tracking circumvention, subsidy, and transshipment efforts, which may include raising tariffs and raising pollution intensity measures on exports from third countries suspected of circumvention.

Variable charge tiers

The variable charge is determined based on how much the GHG emissions intensity of the imported product’s manufacturing process exceeds those of the comparable US product. The metric starts at 10% over the US emissions level and increases from there in specified tiers. As an imported product moves up these tiers, the tariff it faces will rise. The tariff would therefore favor imports originating in countries that have lower average GHG emissions. Imports with emissions that deviate by less than 10% of the US level would be exempt from the tariff.

The bill does not include the specific variable charges that an importer would have to pay at each of these emissions tiers. Instead, the bill establishes a series of average emissions intensity targets for imports. Treasury would then determine the variable charges necessary to reduce imports from high-emission countries enough so that overall imports will match those targets. The bill would implement these targets in three stages that gradually lower the emissions targets until all import product categories reach an average GHG emissions intensity within 10% of the comparable US emissions level.

In phase one, the first six years of the program, the variable fee would:

- In cases where an imported product’s worldwide average emissions level is more than 50% above the domestic level, set such variable fees as to lower the average emissions level of the imported product to only 50% above the domestic level;
- In cases where the imported product’s worldwide average emissions level is between 25% and 50% above the domestic level, set such variable fees as to lower the average emissions level of the imported product to only 25% above the domestic levels;
- In cases where an imported product’s worldwide average emissions level is between 10% and 25% above the domestic level, set such variable fees as to lower the average emissions level of the imported product to at most 10% above the domestic level.

In phase two, the subsequent six years, the products that previously targeted 50% above domestic emissions levels would be lowered to a new target of 25% and the products that targeted 25% would be lowered to the 10% target.

In phase three, which includes all subsequent years after phase two, the variable tariffs would target lowering the average emissions intensity of every imported product to within 10% of the US level.

Measuring GHG intensity

A National Laboratory Advisory Board on Global Pollution Challenges (Board), consisting of the US National Energy Laboratories and domestic industry representatives, will measure US pollution intensity based on data gathered by the EPA. The measure of GHG emissions will include the point-source emissions of the covered manufacturing facilities, the generation of the electricity the facilities draw from the power grid, and emissions from the production of upstream inputs. Emissions intensity is then computed as the ratio of emissions to the amount of product manufactured at the HTS six-digit level.

The bill grants the Board and the EPA significant flexibility with how to measure these GHG emissions. According to the bill, the emissions data, to the extent possible, should come from the EPA's existing regulatory reporting system (the Greenhouse Gas Reporting Program), rather than through the creation of new systems. The EPA and the Board would then develop estimates of pollution intensity in other countries based on the US emissions data and other vetted sources using the same calculations used for the domestic emissions data.

The bill makes some allowances for regional differences within countries, differing production methods for products, use of carbon capture and storage, and use of recycled inputs, saying the pollution intensity measures should take these into account. It also establishes special rules for products with complex supply chains, including *de minimis* exceptions. The bill's goal, however, is to establish single national averages for emissions in each country with all imports from a country paying the same fee. The bill's authors argue this is preferable to facility-specific measures because it will discourage countries from only exporting lower emission products to the United States while exporting higher emission products elsewhere.

Exceptions

There are three limited exceptions to the tariffs: (i) for countries that have a free trade agreement (FTA) with the United States; (ii) for situations where there is little domestic production of like products; and (iii) for national security-related concerns. The bill also contains a system whereby specific facilities may apply for separate treatment from the national emissions levels, though this may be difficult to obtain. Products that originate in an NME cannot claim any of these exceptions.

The exemption for US FTA partners would allow products made in FTA partners to enter without paying the emissions tariff.[14] However, this exception is only partial and would only apply if the average GHG emissions of production in a relevant FTA partner for a covered good is within 50% of the US level. If the emissions level is above 50%, the tariff would still apply despite the commitments to non-discrimination and tariff reduction in the relevant FTA.

Under certain conditions, specific manufacturing facilities can apply for individual treatment instead of being held to the national emissions level. To receive such treatment, these facilities would have to demonstrate that they are operating in compliance with US domestic environmental laws, have the same emissions intensity levels as US producers or have an actionable plan to reduce emissions to US levels while using emissions abatement technology purchased from the United States to do so, and are not in an NME or financed by an NME-linked state-owned enterprise.

Encouraging countries to join a carbon tariff club

Countries would be able to avoid the tariff by entering into an International Partnership Agreement with the United States. To join these partnerships, the country would have to adopt its own emissions-based tariff system comparable to that of the United States, with an eventual view to building a common tariff club. The bill's goal is likely to use the threat of the emissions-based tariffs to pressure countries into joining this club, similar to how USTR is leveraging Section 232 tariffs on steel and aluminum to pressure countries into joining the GASSA.

USTR could negotiate these partnerships either bilaterally, multilaterally, or as part of a broader international accord. The US Congress must then approve the partnerships, like with FTAs. Countries joining these agreements would not have to adopt any policies to reduce their GHG emissions. Instead, the bill requires partner countries to adopt an emissions-based tariff and an emissions accounting system compatible with the US system, and to reduce barriers to imports of the covered products from the United States.

[14] The bill defines "free trade agreement" as an agreement that reduces tariff and non-tariff barriers and is approved by Congress.

These partnerships would allow all imports into the United States from the partner country to enter duty free if the average emissions intensity of the product is less than 50% higher than the US emissions. For imports with emissions that are more than 50% above the US level, the tariff would be set at the emissions tier that is that product's emissions intensity minus 50 percentage points, creating a significant tariff discount for higher emission products. Low- and lower-middle income countries would receive additional tariff reductions and technical assistance.

NMEs that are also upper middle-income or high-income countries are not allowed to enter these partnerships, excluding them from any common tariff club.[15] As such, Armenia, Azerbaijan, Belarus, China, Georgia, Moldova, Russia, and Turkmenistan, which are all NMEs that are upper middle-income or high-income countries, would not qualify for the partnerships. Coupling this NME exclusion with the threat of tariffs against other countries that do not join the partnership agreements, if successful, would effectively isolate these countries from international trade in the covered products unless they can lower GHG emissions to US levels. In his unveiling of the bill, Sen. Cassidy specifically drew attention to how the bill would harm China and Russia and protect US manufacturing and supply chain security interests, saying that the proposal would "address the nexus between energy, economic development, supply chains, national security, and the environment at the expense of China and Russia."

Broader US efforts to begin measuring and taxing GHG emissions in tradeable goods

The bill is the strongest effort so far by a US lawmaker to begin implementing some form of tariffs on high emissions tradable products – an increasingly popular approach among domestic industry representatives in Washington.

Sen. Cassidy is also co-sponsoring the "Providing Reliable, Objective, Verifiable Emissions Intensity and Transparency Act" (PROVE IT Act), a bill introduced to the Senate in June 2023 that would direct the Department of Energy to begin studying the emissions of certain goods.[16] These goods would include aluminum, cement, iron and steel, plastics, biofuels, oil and petrochemicals, fertilizer, hydrogen, lithium-ion batteries, natural gas, paper, solar panels, uranium, and wind turbines. If the PROVE IT Act is successful, it would help begin developing the GHG metrics that Sen. Cassidy could use for his tariff. The PROVE IT Act is backed by the American Iron and Steel Institute, Steel Manufacturers Association, and the American Petroleum Institute, among other groups.

Alongside these legislative efforts, the Biden administration has also begun studying methods to measure the greenhouse gas intensity of certain industries. As part of its negotiations with the EU on the GASSA, the US International Trade Commission (ITC) has begun to investigate the GHG emissions of the US steel and aluminum industry, following a request from USTR.[17] USTR requested the study on June 5, 2023, saying the results are needed to "inform discussions with the European Union (EU) regarding the Global Arrangement on Sustainable Steel and Aluminum (Global Arrangement)." While Sen. Cassidy's bill relies on existing data from the EPA Greenhouse Gas Reporting Program, the higher level of detail and broader scope of emission types for which USTR is seeking information will require new research and surveying work. ITC expects to deliver the report to USTR by January 28, 2025, and then release it to the public. A public hearing on the report is scheduled for December 7, 2023.

ITC posted a request for comments on its emissions questionnaire on November 2, 2023, in the latest development on the study.[18] Once ready, ITC will issue the questionnaire to steel and aluminum producers in the United States in

[15] The list of countries currently designated as non-market economy countries is accessible here: https://www.trade.gov/nme-countries-list; and the World Bank Group country classifications by income levels (which the bill relies on for its classifications) are accessible here: https://blogs.worldbank.org/opendata/new-world-bank-group-country-classifications-income-level-fy24.

[16] S.1863 - PROVE IT Act of 2023, 118th Congress, accessible here: https://www.congress.gov/bill/118th-congress/senate-bill/1863.

[17] "Greenhouse Gas Emissions Intensities of the U.S. Steel and Aluminum Industries at the Product Level," 88 FR 43633 (July 10, 2023), accessible here: https://www.federalregister.gov/documents/2023/07/10/2023-14500/greenhouse-gas-emissions-intensities-of-the-us-steel-and-aluminum-industries-at-the-product-level.

[18] "Greenhouse Gas Emissions Intensities of the U.S. Steel and Aluminum Industries at the Product Level; Proposed Information Collection; Comment Request; Greenhouse Gas (GHG) Emissions Intensity Questionnaire," 88 FR 76854 (November 7, 2023), accessible here:

2024. Responding to the survey will be mandatory for facilities that are within scope. Comments on the draft survey are due no later than 60 days after the comment request is published in the Federal Register.

Outlook

The bill is co-sponsored by Senator Lindsey Graham (R-SC) and has been referred to the Senate Committee on Finance. There is not yet an accompanying version of the bill in the House of Representatives. Democrats, some of whom would have to support the bill for it to succeed in the current legislative session, have not yet offered endorsements. Sens. Sheldon Whitehouse (D-RI) and Chris Coons (D-DE), who are promoting a Democrat bill that would couple a carbon import tax with a domestic carbon tax, have said they are open to negotiating with the Republicans on the proposal.[19] The US steel industry, which has been a strong advocate for the GASSA and other emissions-based tariff proposals, thanked Sen. Cassidy for his leadership on the matter but objected to how the possibility of a common tariff club under the bill could shield most countries from the US tariffs.[20]

Republicans introducing a bill that recognizes both the need to address climate change and the usefulness of carbon pricing could eventually become the starting point for real negotiations on a carbon pricing system, though the final product may be significantly different from this proposal. The opening the bill created to discuss bipartisan climate change policy however immediately drew rebukes from some conservatives. Senator Roger Wicker (R-MS), an early supporter of the bill who had planned to co-sponsor it, withdrew his support after encountering these conservative complaints.

NOAA Withdraws Seafood Import Monitoring Program Expansion, and Instead Launches Full Program Review

On November 14, 2023, the US National Oceanic and Atmospheric Administration (NOAA), part of the Department of Commerce, withdrew its proposal to expand the Seafood Import Monitoring Program (SIMP).[21] NOAA had proposed several reforms to SIMP in 2022 to expand its coverage to more fish species, better track importers of record, and make various other administrative changes.[22] However, the public's response to the proposed rule highlighted perceived foundational issues with the program's effectiveness and scope of enforcement. The negative feedback prompted NOAA to step back from its proposed rules. Rather than expand the program as originally proposed, NOAA will undertake an extensive review of SIMP, examining its coverage, design, and objectives. NOAA intends for original SIMP rules to remain in force until it completes the review, at which time NOAA may issue new proposed rules.

SIMP and the withdrawn regulations

NOAA implemented SIMP in 2018 to combat illegal, unreported, and unregulated (IUU) fishing and fraudulently labeled seafood.[23] The program requires extensive supply chain reporting and recordkeeping from importers, which

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https://www.federalregister.gov/documents/2023/11/07/2023-24572/greenhouse-gas-emissions-intensities-of-the-us-steel-and-aluminum-industries-at-the-product-level.

[19] S.4355 - Clean Competition Act, 117th Congress, accessible here: https://www.congress.gov/bill/117th-congress/senate-bill/4355.

[20] "AISI Comments on GHG Border Fee Bill Introduced Today," November 2, 2023, accessible here: https://www.steel.org/2023/11/aisi-comments-on-ghg-border-fee-bill-introduced-today/; and "SMA Comments on the Foreign Pollution Fee Act of 2023," November 2, 2023, accessible here: https://steelnet.org/sma-comments-on-the-foreign-pollution-fee-act-of-2023/.

[21] "Withdrawal: Magnuson-Stevens Fishery Conservation and Management Act; Seafood Import Monitoring Program," 88 FR 78714 (November 16, 2023), accessible here: https://www.federalregister.gov/documents/2023/11/16/2023-25309/magnuson-stevens-fishery-conservation-and-management-act-seafood-import-monitoring-program.

[22] "Proposed Rule: Magnuson-Stevens Fishery Conservation and Management Act; Seafood Import Monitoring Program," 87 FR 79836 (December 28, 2022), accessible here: https://www.federalregister.gov/documents/2022/12/28/2022-27741/magnuson-stevens-fishery-conservation-and-management-act-seafood-import-monitoring-program.

[23] More information from NOAA about SIMP is accessible here: https://www.fisheries.noaa.gov/international/seafood-import-monitoring-program.

the importers submit to the government alongside import declarations. SIMP does not directly interdict violating products at the border, instead focusing on reporting, recordkeeping, and auditing. The program targets products deemed to be at high risk for IUU and fraud, including shrimp, abalone, crab, cod, tuna, and various other marine species. When the program detects problems, it can refer them to US CBP or other law enforcement agencies for follow-up investigations. Altogether, SIMP's reporting obligations cover about half of US seafood imports. In 2022, Japan exported $279 million of fish and other maritime products to the United States,[24] including cod, snapper, sea cucumber and other covered species.

The 2022 proposed rule would have been a notable expansion of SIMP's coverage. NOAA proposed increasing the number of species subject to SIMP from 1,100 individual species to 1,670, including all species of snapper, all species of tuna, squid, cuttlefish, octopus, eels, Queen Conch, and Caribbean Spiny Lobster. The United States imports several of these products from Japan. The reforms would also have clarified recordkeeping and reporting responsibilities of the importers of record, as well as aligning the definition of importer of record with that of CBP and adding options for digital audit trails. These changes were in part intended to strengthen the rules and limit potential for bypassing the regulations. NOAA included several other administrative changes in the proposed rules, including clarifying the Aggregated Harvest Report criteria for small-vessel harvesters and the application of SIMP to the US Pacific Insular Areas.

Public feedback on the proposal was substantial, with NOAA receiving 2,202 comments on the proposed rule, in contrast with only 104 comments on the original rules in 2016. Much of this feedback was negative or contradictory. Industry stakeholders widely believe that SIMP has failed in its core objective of stopping the import of IUU products, questioned why NOAA would prioritize expanding SIMP under such circumstances, and proposed various alternative solutions and objectives for the program. According to NOAA, this feedback showed SIMP is not meeting the expectations of its stakeholders and that the program needs a comprehensive review.

The comprehensive review

Rather than proceed with the expansion of the program or modifying the proposals, NOAA decided to withdraw the proposed rule and focus on a broader review of SIMP. As the review proceeds, the preexisting SIMP rules will remain in force. NOAA has informed its stakeholders that it will not change the list of priority species or reporting requirements until it can complete the review.

According to NOAA, a critical goal for the review will be "better defining the problem that we are working to address." NOAA is questioning if the goals of the program (targeting both IUU and labeling fraud) should be changed, and what SIMP can achieve in pursing these goals.

Some stakeholders are interested in expanding the program's coverage to include all fish species and a broader set of abuses, while others want to the program to better prioritize products and markets that are at an elevated risk of the most harmful forms of IUU. This debate also involves whether SIMP should continue targeting imports on a global basis or shift to targeting imports from specific high-risk countries. There are also proposals to expand SIMP's objectives to cover other policy issues like forced labor. NOAA is consulting the Department of Labor on what a new focus on forced labor could accomplish. SIMP has referred forced labor cases to CBP in the past, assisting Withhold Release Orders.

NOAA also noted that some stakeholders have unrealistic expectations for SIMP, given NOAA's limited resources and narrow legal authorities. Determining what kinds of regulations NOAA can implement under the powers granted to it by the Magnuson-Stevens Fishery Conservation and Management Act (MSA), and what monitoring and enforcement resources it has access to, will be part of the review. NOAA is also consulting the with other federal

[24] NAICS 114 – Fish & Other Marine Products, US Census Bureau via trade.gov, accessed December 4, 2023.

agencies to determine how it can better work with other parts of the government and better leverage resources that exist elsewhere.

NOAA is seeking input from industry, non-governmental organizations, other federal agencies, members of Congress, and foreign governments on how to reform the program. The staff running the review intend to hold public engagements to gather stakeholder input[25] and are welcoming direct feedback by email.

NOAA expects to spend six to nine months conducting the review and synthesizing the results. Consideration of new regulatory or legal changes will follow that review, if NOAA believes they are necessary. These new rules will follow the standard rulemaking process with NOAA issuing a proposed rule and a request for public comments before issuing any new final rules. If NOAA determines that it needs new legal authorities, it will refer the matter to Congress.

Biden Administration Issues First US Global Labor Rights Strategy

On November 16, 2023, the Biden administration issued the *Presidential Memorandum on Advancing Worker Empowerment, Rights, and High Labor Standards Globally* ("Strategy"), the first global whole-of-government labor rights strategy ever issued by the United States government. The activities and policy changes the Strategy lays out would elevate labor rights and labor union interests in the processes of all federal agencies that work on trade policy and other foreign policy activities. The Strategy links worker empowerment to sustainable economic growth, development, national security, a strong middle class, and a variety of other broad policy goals, and asserts that the United States must expand its work advancing labor rights to a global level.[26]

The Biden administration unveiled the Strategy on the sidelines of the Asia-Pacific Economic Cooperation (APEC) Leaders' Meeting with Secretary of State Antony Blinken, Acting Secretary of Labor Julie Su, USTR Ambassador Katherine Tai, and Special Representative for International Labor Affairs Kelly Fay Rodríguez. The Strategy involves the federal agencies that are engaged with affairs outside the United States, which include the Department of State, the Department of the Treasury, the Department of Defense, the Department of Justice, the Department of Agriculture, the Department of Commerce, the Department of Labor, the Department of Energy, the Department of Homeland Security, the International Development Finance Corporation, USTR, and the United States Agency for International Development (USAID). The National Security Council (NSC), which coordinates policy across the executive branch, led the Strategy's development.

Components of the Strategy

The memorandum organizes the proposed activities into five strategic areas that the Biden administration will prioritize.

- **Leveraging foreign policy tools to promote labor rights:** Agencies involved in foreign policy should engage with foreign governments, workers, unions, and companies to promote labor rights and prevention of forced labor and child labor. This work will include (1) meeting with workers and unions during negotiations and missions abroad; (2) using high level diplomatic channels to raise labor concerns; (3) developing plans for managing local strikes that may affect US government business; (4) exploring actions to promote high labor standards abroad;

[25] Interested stakeholders can register for NOAA Fisheries updates here: https://public.govdelivery.com/accounts/USNOAAFISHERIES/subscriber/new. The next stakeholder listening session is scheduled for December 15, 2023, accessible here: https://www.fisheries.noaa.gov/event/webinar-seafood-import-monitoring-program-review.

[26] The memorandum focuses on "internationally recognized labor rights," which it defines as "those internationally recognized labor principles incorporated into United States trade agreements, including freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labor; the effective abolition of child labor, a prohibition on the worst forms of child labor, and other labor protections for children and minors; the elimination of discrimination with respect to employment and occupation; and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health."

(5) having Chiefs of Mission engage in labor diplomacy, including by encouraging foreign companies to uphold labor rights and implementing labor rights strategies in USAID programs; and (6) elevating the role of unions in green energy development and investment planning.

- **Engaging with multilateral organizations and diplomatic coalitions to promote labor rights:** This area emphasizes promotion of high labor standards through cooperation with allies and multilateral organizations, including by (1) raising labor issues in multilateral organizations; (2) expanding the Presidential Initiative for Democratic Renewal's Multilateral Partnership for Organizing, Worker Empowerment, and Rights (M-POWER);[27] (3) encouraging the multilateral development banks (MDBs) to promote higher labor standards, including in the International Finance Corporation's Sustainability Framework review and in new safeguards for MDB financing; and (4) promoting union roles in green energy transition forums and projects.
- **Deterring threats to union leaders and organizers:** Agencies involved in foreign policy will support the protection of labor leaders in other countries, including by (1) using financial sanctions, trade penalties, visa restrictions, and other actions to deter anti-union harassment; (2) elevating labor protection issues in international economic, human rights, security forums; and (3) instructing the State Department to consider additional measures to protect labor organizers.
- **Strengthening US government capacity on labor issues:** This area emphasizes investing in training and staff development to increase the US government's ability to support labor work and improving coordination across agencies, including with labor rights training for foreign commercial service officers, USAID staff, and State Department staff.

The trade policy area of the Strategy

The Strategy calls for the development of a trade policy that will advance internationally recognized labor rights and support inclusive growth throughout global supply chains. The Strategy includes instructions to expand or introduce various specific measures in trade negotiations, tariff preference programs, customs and trade rule enforcement, and other economic engagement frameworks, including the following:

- USTR and other relevant agencies are to explore ways to use existing authorities to promote labor rights and remediation of labor rights violations, and work with other agencies to develop new enforcement tools;
- The Department of Homeland Security and USTR are to strengthen policing of labor-related compliance in US trade laws, trade preference programs, customs law, and the labor provisions of free trade agreements;
- The Departments of State, Treasury, Labor, and Homeland Security, as well as USTR and the Attorney General, should consider developing a comprehensive program to eliminate forced labor from global supply chains;
- The Departments of State, Energy, Treasury, Labor, and Homeland Security, as well as USTR and the Attorney General, should identify other innovative programs to promote labor rights in supply chains, including worker-led compliance monitoring programs;
- The Treasury and State Departments should consider using authorities for combatting serious human rights abuses, such as sanctions, to address forced labor in global supply chains;
- The Department of Homeland Security should consider improving information exchange with foreign customs agencies on forced labor issues;

[27] Information on the Multilateral Partnership for Organizing, Worker Empowerment, and Rights is accessible here: https://www.dol.gov/agencies/ilab/multilateral-partnership-for-organizing-worker-empowerment-and-rights-m-power-initiative.

- The Forced Labor Enforcement Task Force (FLETF) should update the strategy for supporting the enforcement of section 307 of the Tariff Act of 1930 to make it more consistent with the Uyghur Forced Labor Prevention Act (UFLPA); and
- The FLETF should continue developing the UFLPA Entity List and assessing what new resources it may need for implementation.

Some of these activities are already ongoing, such as UFLPA enforcement, and the memorandum is folding them into a larger approach. A few other proposals in the Strategy are discretionary and may not actually occur because of resource or policy constraints, such as the orders that the government should consider using sanctions to combat forced labor and to develop a plan to eliminate forced labor globally.

Commenting on the release of the Strategy for USTR, Ambassador Tai said the approach shows how the Biden administration cares about workers both in the United States and abroad.[28] She highlighted how USTR is heavily using the US-Mexico-Canada Agreement's (USMCA) Facility-Specific Rapid-Response Labor Mechanism (RRM), prioritizing negotiating high-standard labor rights over deals that simply increase trade, combatting forced labor in supply chains, and increasing union representation in the trade policy process. USTR has been seeking to include labor enforcement mechanisms like the RRM in other recent trade agreement negotiations, including the Indo-Pacific Economic Framework for Prosperity (IPEF) trade pillar.

The government-wide Strategy fits with USTR's new "worker-centric trade policy," in which USTR is prioritizing labor issues in trade engagements. USTR held a call for input in June 2023 to gather suggestions from stakeholders on how it can continue advancing this policy,[29] receiving 1,500 responses. In July 2022 USTR also issued a call for input specifically to inform a potential program to combat forced labor worldwide, which the new Strategy references as one option that USTR and related agencies should consider developing.[30]

The President's "Memorandum on Advancing Worker Empowerment, Rights, and High Labor Standards Globally" is accessible here: https://www.whitehouse.gov/briefing-room/presidential-actions/2023/11/16/memorandum-on-advancing-worker-empowerment-rights-and-high-labor-standards-globally/.

President Biden Convenes Supply Chain Council and Receives Recommendations from Export Council

President Biden has recently hosted a series of meetings to discuss policy recommendations for supply chain security and export competitiveness. During the week of November 27 to December 1, 2023, President Biden convened the first meeting of the Cabinet-level Council on Supply Chain Resilience and the second meeting of the recently re-established President's Export Council (PEC). The supply chain council's work focuses on developing strategies to make US supply chains more resilient, while the PEC issued recommendations for how the government can improve export performance in agriculture, green technology, and manufacturing.

Second Meeting of the President's Export Council

The PEC is a high-level advisory body that provides recommendations to the president and the rest of the executive branch on policies to support US export performance and discuss trade-related challenges. President Biden revived it

[28] "Remarks by Ambassador Katherine Tai to Discuss Updates on Biden-Harris Administration's Worker-Centered Trade Agenda at the Center for American Progress," accessible here: https://ustr.gov/about-us/policy-offices/press-office/speeches-and-remarks/2023/october/remarks-ambassador-katherine-tai-discuss-updates-biden-harris-administrations-worker-centered-trade.

[29] "Request for Comments on Advancing Inclusive, Worker-Centered Trade Policy," 88 FR 38118 (June 12, 2023), accessible here: https://www.federalregister.gov/documents/2023/06/12/2023-12446/request-for-comments-on-advancing-inclusive-worker-centered-trade-policy.

[30] "Request for Comments: Trade Strategy to Combat Forced Labor," 87 FR 40332 (July 6, 2022), accessible here: https://www.federalregister.gov/documents/2022/07/06/2022-14355/request-for-comments-trade-strategy-to-combat-forced-labor.

in early 2023 after it had been dormant since the Obama administration. It held its second meeting on November 29, 2023, following an inaugural meeting on June 29, 2023.

The PEC meeting issued a series of recommendations on exporting agriculture, green technology, and manufacturing products.[31] These recommendations included:

- Proposing measures to strengthen green energy and green technology exports, including with the Indo-Pacific Economic Framework for Prosperity's (IPEF) recently concluded clean economy agreement.
- Arguing the administration should leverage the WTO for improving market access in clean technology, including by reviving the stalled WTO Environmental Goods Agreement and finding common methods for calculating carbon emissions intensities.
- Calling for an early reauthorization the African Growth and Opportunity Act (AGOA).
- Calling for increased agriculture export promotion.
- Making several proposals for improving supply chain resilience, including negotiating more critical minerals trade agreements.

Secretary of Commerce Gina Raimondo said at the November 29 meeting that she believes the PEC, through these recommendations, can help implement IPEF and mobilize US private sector resources to support the green energy transition in Southeast Asia. Secretary Raimondo further invited the PEC members to join her on a trip to the Philippines and Thailand in March 2024.

President Biden revived the PEC in early 2023 to gather private sector advice on improving US export performance, nominating a mix of business, labor, and government representatives to its board. The PEC then met for the first time since 2016 on June 29, 2023. The June meeting focused on trade facilitation and innovation, calling on President Biden to address emerging needs for artificial intelligence regulation, address non-tariff trade barriers in areas like technical standards, improve coordination on export controls, and creating an innovation and manufacturing coordinator office in the government.[32]

During the November 29 meeting, Commerce Secretary Gina Raimondo also announced that the administration will revive the PEC's subcommittee on export administration. The subcommittee, which had ceased operations in 2019, will help the Bureau of Industry and Security collaborate with the private sector on export control matters. The PEC called for the revival of the subcommittee during its June 2023 meeting. The Commerce Department originally established the subcommittee in 1976 to make recommendations on how the Department of Commerce could control national security risks of exports while minimizing negative effects on business.[33] Reviving the subcommittee is part of larger effort by the Commerce Department to expand the use of export controls into more dual-use technology products, most notably semiconductors, which will require closer coordination with the private sector to properly scope.

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[31] See the November 29, 2023, recommendations from the President's Export Council on agriculture, accessible here: https://www.trade.gov/sites/default/files/2023-11/PEC Agriculture Recommendation 11292023.pdf; climate change, accessible here: https://www.trade.gov/sites/default/files/2023-11/PEC Climate Recommendation 11292023.pdf; and manufacturing, accessible here: https://www.trade.gov/sites/default/files/2023-11/PEC Manufacturing Recommendation 11292023.pdf.

[32] See the June 29, 2023, recommendations from the president's Export Council on innovation and technology, accessible here: https://www.trade.gov/sites/default/files/2023-06/PEC-Letter-Innovation-and-Technology-6.29.2023.pdf; and trade facilitation, accessible here: https://www.trade.gov/sites/default/files/2023-06/PEC-Letter-Trade-Facilitation-6.29.2023.pdf.

[33] Charter Of The President's Export Council Subcommittee On Export Administration, accessible here: https://www.bis.doc.gov/index.php/licensing/28-technology-evaluation/151-presidents-export-council-subcommittee-on-export-administration.

The Commerce Department will soon issue a public notice to solicit private sector representatives for the subcommittee. Secretary Raimondo said she hopes to recruit senior product executives who can offer insight into emerging technologies. Lisa Disbrow, a former Under Secretary of the US Air Force and a member of the PEC, will chair the subcommittee.

Launch of the Council on Supply Chain Resilience

A few days before the meeting of the PEC, President Biden hosted the first meeting of his new White House Council on Supply Chain Resilience on November 27, 2023. Establishment of the Council is the latest step in the administration's ongoing efforts to expand the government's focus on supply chain security and sustainability, which has also included new trade cooperation agreements on supply chains like in IPEF, subsidies for domestic manufacturing of critical goods, new regulations on forced labor, expanded Buy America requirements, and exploring new sources of critical minerals.

The Council is made up of a broad set of executive branch agencies representing economic, public health, national security, environmental, and law enforcement interests, suggesting a whole-of-government approach to these supply chain topics. Bringing such a broad array of interests into the discussion may lead to policy actions that are relevant to international trade emerging from parts of the government that are not typically associated with trade policy.

In its first meeting, the Council issued 30 recommendations and policy actions for improving the resilience of supply chains important to US economic and national security.[34] These recommendations generally point to a prioritization of improving information sharing within the government and mapping perceived risks, and potentially developing policies that would favor US manufacturing of certain products. The policies outlined in the Council's announcement include those below, among others:

- The Council will conduct a supply chain review by the end of 2024 to determine what industries and products should be designated as critical to national and economic security.
- A new Supply Chain Center at the Department of Commerce will develop new supply chain risk assessment and data tools to share supply chain data across the government and private sector. Commerce will also host a supply chain data summit in 2024.
- The Department of Homeland Security (DHS) Supply Chain Resilience Center (SCRC) will collaborate with the private sector to secure supply chains through analyzing vulnerabilities and conducting scenario planning for disruptions.[35] The DHS' work will include efforts to secure semiconductor supply chains, help infrastructure operators deliver critical goods during disruptions, hosting table-top exercises on cross-border supply chain disruptions, and examining vulnerabilities in US seaports.

  The seaport program was the most developed proposal in the November 27 announcement and highlighted "evaluating the risks to ports posed by adversarial nation state threats, overreliance on untrustworthy equipment subject to nation-state control, data extraction, insider risk, and unvetted virtual and physical access." The SCRC will issue updated port security advisories in early 2024 and Secretary of Homeland Security Alejandro Mayorkas intends to host a roundtable with port operators, logistics companies, and traders to discuss the SCRC's work.

[34] "FACT SHEET: President Biden Announces New Actions to Strengthen America's Supply Chains, Lower Costs for Families, and Secure Key Sectors," November 27, 2023, accessible here: https://www.whitehouse.gov/briefing-room/statements-releases/2023/11/27/fact-sheet-president-biden-announces-new-actions-to-strengthen-americas-supply-chains-lower-costs-for-families-and-secure-key-sectors/.

[35] "Biden-Harris Administration Announces Supply Chain Resilience Center to Protect U.S. Supply Chain from Evolving Threats," November 27, 2023, accessible here: https://www.dhs.gov/news/2023/11/27/biden-harris-administration-announces-supply-chain-resilience-center-protect-us.

Establishing the SCRC was one of several recommendations made in the final report of the Homeland Security Advisory Council Supply Chain Security Subcommittee in March 2023.[36] The report also recommended revising critical infrastructure lists, improving export controls and sanctions cooperation, increasing customs information sharing with allies, and improving enrollment in the Customs Trade Partnership Against Terrorism (CTPAT).

- The US Geological Survey will develop new mapping tools for critical mineral supply chains that the government can use to identify risks, while the Department of Energy will provide $10 million in funding for a critical minerals accelerator program.
- The Department of Labor will undertake a series of actions to strengthen monitoring of labor rights in international supply chains, including with the recent updates to its Comply Chain guidance,[37] sponsoring the development of new supply chain traceability techniques, and launching new research projects on labor concerns in the mining and agriculture sectors in developing countries.
- The president will invoke the Defense Production Act to enable investment in the domestic manufacturing of medicines, medical countermeasures, and medical inputs that are designated as essential to national defense. The Department of Health and Human Services will contribute $35 million for this effort. The Department of Defense is also developing a report on reducing US dependence on "high-risk foreign suppliers" of pharmaceuticals.
- The Council's announcement also highlighted various international partnerships and trade agreements that the administration is leveraging to bolster supply chain security, including the IPEF Supply Chain Agreement, the Americas Partnership for Economic Prosperity (APEP), the Partnership for Global Infrastructure and Investment (PGII), President Biden's global labor rights policy directive, the Mineral Security Partnership (MSP), and the International Technology Security and Innovation (ITSI) Fund.

[36] "Homeland Security Advisory Council Supply Chain Security Subcommittee Final Report," March 16, 2023, accessible here: https://www.dhs.gov/sites/default/files/2023-03/Supply Chain Security Final Report 03162023.pdf.

[37] Department of Labor Comply Chain, accessible here: https://www.dol.gov/agencies/ilab/comply-chain.

Trade Agreements

IPEF

IPEF Members Complete Fair Economy and Clean Economy Pillars, Delay Completion of Trade Pillar

In early November 2023, the 14 countries negotiating the Indo-Pacific Economic Framework for Prosperity (IPEF) held back-to-back negotiating rounds, ministerial meetings, and then a leaders' meeting, attempting to complete the agreement on schedule. At the leaders' meeting on November 16, 2023, the parties announced the substantial conclusion of Pillar III (Clean Economy) and Pillar IV (Fair Economy) and held a signing ceremony for the Agreement Relating to Supply Chain Resilience (IPEF Supply Chain Agreement – Pillar II).[38] Confronting domestic political challenges, USTR decided to continue negotiations on Pillar I (Trade) into 2024 instead of announcing an early harvest with the Pillar's completed chapters.

The parties also established an IPEF Council to oversee the arrangement during the meetings. The Council will manage the four pillars and will be responsible for considering entry of new members and the establishment of new agreements, facilitating continuous development of the partnership. A second body, the IPEF Joint Commission will coordinate the work of Pillars II, III, and IV. The Council and Commission will meet annually alongside IPEF ministerial meetings. These bodies were enshrined in the Agreement on the Indo-Pacific Economic Framework for Prosperity, a separate agreement that the parties also concluded on November 14.

The three new agreements will now proceed to a legal scrub and domestic consultations to prepare the final texts for publication and ratification. The parties have not yet issued full texts of these new agreements, though the joint statement included high-level summaries.

The IPEF Clean Economy Agreement (Pillar III)

The IPEF Clean Economy Agreement, the outcome of the Pillar III negotiations, focuses on facilitating economic cooperation to respond to climate change. The joint statement describes it as a commitment to "pursue their shared climate objectives and respective pathways to net-zero emission economies while also ensuring the promotion of sustainable growth and success for all partners." The agreement covers a range of climate policy topics, including the green energy transition, climate change adaptation, greenhouse gas emissions mitigation, increasing investment in climate-related projects, and sustainability. The parties also announced a new IPEF Catalytic Capital Fund, which will raise money from a multinational donor group to fund climate-related infrastructure projects through the Private Infrastructure Development Group (PIDG).

The agreement specifically envisions cooperation activities on a range of programs, including:

- Supporting research, development, and deployment of green technologies;
- Improving connectivity through infrastructure and mutually recognized standards development;
- Facilitating trade in low-emissions goods;
- Diversifying critical minerals supply chains;

[38] "Joint Statement From Indo-Pacific Economic Framework For Prosperity Partner Nations," November 16, 2023, accessible here: https://www.commerce.gov/news/press-releases/2023/11/joint-statement-indo-pacific-economic-framework-prosperity-partner; and an accompanying White House Factsheet, accessible here: https://www.whitehouse.gov/briefing-room/statements-releases/2023/11/16/fact-sheet-in-san-francisco-president-biden-and-13-partners-announce-key-outcomes-to-fuel-inclusive-sustainable-growth-as-part-of-the-indo-pacific-economic-framework-for-prosperity/.

- Reducing methane emissions;
- Supporting national efforts to decarbonize transport;
- Supporting sustainable agriculture, forest, water, and ocean management;
- Collaborating on carbon market development;
- Providing technical assistance for green transition initiatives;
- Promoting sustainable finance for clean energy supply chains and expanding access to financing; and
- Holding annual IPEF Clean Economy Investor Forums, the first of which will be hosted by Singapore in 2024.

Together with these broader objectives, the agreement also facilitates the formation of Cooperative Work Programs to focus resources on specific projects. The first of these programs was the regional hydrogen initiative. The joint statement proposes that programs on blue carbon, sustainable finance, mainstreaming of green jobs, embedded emissions accounting, methane abatement, biofuels, e-waste solutions, clean electricity, carbon markets, and sustainable aviation fuels could also emerge.

The IPEF Fair Economy Agreement (Pillar IV)

The IPEF Fair Economy Agreement, the outcome of the Pillar IV negotiations, is a cooperation agreement focused on improving governance and fighting corruption. The joint statement describes the parties as being "committed to working together to enhance fairness, inclusiveness, transparency, the rule of law, and accountability in their economies to improve the trade and investment environment in the Indo-Pacific region." Some commitments in this pillar will be legally binding, in contrast with other elements of Pillars II, III, and IV that focus on promoting cooperation.

The agreement contains various proposals to cooperate on preventing corruption and improving tax enforcement, including the following:

- Enhancing efforts to combat corruption under the United Nations Convention against Corruption (UNCAC);
- Adopting measures to track and confiscate proceeds of crimes;
- Improving anti-money laundering rules and meeting the standards of the Financial Action Task Force;
- Adopting confidential complaint systems of individuals reporting corruption;
- Adopting certain measures to address corruption in government procurement;
- Supporting efforts for tax transparency and information sharing;
- Supporting tax enforcement capacity building;
- Establishing a Capacity Building Framework to help the parties support each other in implementing the agreement, including the United States providing new funding for expanded United Nations Office on Drugs and Crime (UNODC) programs in Southeast Asia to aid in UNCAC implementation;
- Holding annual coordination meetings to discuss implementation of the commitments as well as ongoing information exchanges; and
- Establishing a new council that will discuss specific corruption concerns raised by parties of the agreement against other parties.

Signing of the IPEF Supply Chain Agreement (Pillar II)

The parties formally signed the Supply Chain Agreement during the summit on November 14. The agreement will facilitate collaboration efforts among the IPEF partners on supply chain resilience, emergency response, and worker rights programs. It does not in itself contain binding commitments on market access or other trade-related matters. Instead, it creates several standing bodies that will examine supply chain resilience policy issues and support reform and cooperation efforts.

The US Department of Commerce published the completed text of IPEF's Pillar II, the Agreement Relating to Supply Chain Resilience, on September 7, 2023, following its substantial completion during the May 27, 2023, ministerial meeting in Detroit, Michigan.[39] Now that the agreement is complete, the parties are exploring the details of how to implement the cooperation programs. According to the US Commerce Department, the parties have already begun sharing best practices and holding tabletop exercises on cybersecurity and crisis response. During the leaders' summit on November 16, the countries announced a new IPEF Critical Minerals Dialogue, which will support regional efforts to strengthen critical minerals supply chains.[40]

Future of the Trade Pillar (Pillar I) and US politics

The parties did not complete negotiations on the trade pillar in time for the summit, with significant outstanding issues remaining in the digital trade, labor, and environment chapters. Negotiators will meet again in the next few months, though a schedule for the next round has not been announced. USTR's statement following the negotiations only said that the parties remained committed to continuing the work.[41] Discussing the more concrete outcomes of the weeks of talks, US negotiators highlighted important progress on biotechnology and sustainable agriculture commitments for the agriculture chapter.

USTR had said ahead of the negotiations that it hoped to complete up to five of the nine trade pillar chapters at the summit, likely including the chapters trade facilitation, good regulatory practices, services domestic regulation, and inclusivity. Negotiations on digital trade, labor rights, and environmental protection would have then continued into 2024. USTR appears to have backed away from this plan at the last minute, amid concerns that a partial agreement which excluded these important chapters would be politically damaging for the Biden administration.

The digital trade chapter has been particularly challenging, with debates ongoing about the strength of the commitments that it should include. The countries negotiating the chapter appear divided between some that support high standard commitments on topics like cross-border data flows and server localization, while others are seeking weaker commitments. The Biden administration itself is facing internal divisions on its digital trade negotiating objectives and has not settled its own internal position on protecting cross-border data flows, preventing server localization mandates, and protecting source code confidentiality. Despite this uncertainty, however, the negotiators were able to make progress on a section of the agreement on artificial intelligence, according to USTR.

The decision to remove these traditional digital trade commitments from the agreement is reinforcing a growing skepticism among US business interests and free trade supporters in Congress over the trade pillar's lack of market access. There is increasing concern among industry groups that the trade pillar will set precedents and send signals

[39] "U.S. Department of Commerce Publishes Text of Landmark Indo-Pacific Economic Framework for Prosperity (IPEF) Supply Chain Agreement," accessible here: https://www.commerce.gov/news/press-releases/2023/09/us-department-commerce-publishes-text-landmark-indo-pacific-economic.

[40] "IPEF leaders reach substantial conclusion on critical minerals and other cooperation agendas," November 17, 2023, accessible here: http://english.motie.go.kr/en/tp/ftaeconomiccooperration/bbs/bbsView.do?bbs_seq_n=1544&bbs_cd_n=2&view_type_v=TOPIC&&currentPage=1&search_key_n=&search_val_v=&cate_n=4.

[41] "U.S. Press Statement on Indo-Pacific Economic Framework Pillar I," November 16, 2023, accessible here: https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/november/us-press-statement-indo-pacific-economic-framework-pillar-i.

to US trade partners that will harm digital trade market access more generally, which may undermine support for the final trade agreement among important US business constituencies.

At the same time, labor and environmental interest groups and their allies in Congress are increasingly frustrated over the lack of rigorous commitments in the pillar's labor and environment chapters. In the labor chapter, parties are continuing to debate binding high-standard commitments that the United States is insisting be included. The United States is seeking an enforceable response mechanism for labor complaints, similar the Rapid Response Mechanism in the US-Mexico-Canada Agreement (USMCA), and a commitment among the parties to adopt bans on imports of products made with forced labor. These provisions are a high priority for US labor interests and their allies in Congress, which will make it difficult for the Biden administration to complete the agreement without them.

Senator Sherrod Brown (D-OH) announced ahead of the November summit that he would oppose the Trade Pillar because of its lack of strong labor standards.[42] Sen. Brown was involved in developing the facility specific rapid response mechanism in the USMCA. Other senior Democrats raised similar concerns ahead of the summit, with Finance Committee Chair Ron Wyden (D-OR) telling the press that he agreed with Sen. Brown's concerns. The emergence of these concerns just before the ministerial meeting apparently contributed to USTR's decision to delay completion of any part of the agreement.

Sen. Brown faces a tough re-election in 2024 in a state that is often skeptical of international trade. His statements about IPEF have alarmed members of the Biden administration who believe trade agreements may be a liability in the upcoming elections. These electoral concerns will become more severe over the coming months, making a compromise on the Trade Pillar tougher for the Biden administration the longer the negotiations last.

APEP

Americas Partnership for Economic Prosperity Holds First Leaders' Summit

The first leaders' summit of the Americas Partnership for Economic Prosperity (APEP) took place in Washington, DC on November 3, 2023, hosted by US President Joseph Biden and attended by leaders of the other eleven inaugural partnership countries: Barbados, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, Mexico, Panama, Peru, and Uruguay.[43] At the end of the summit, they issued the "East Room Declaration of the APEP Leaders."

APEP is a US-led initiative, launched in June 2022 during the Summit of the Americas in Los Angeles, to try to regain some leadership in the Western Hemisphere, after years of US disengagement in the region. The stated aims of APEP are to chart a path forward to tackle economic inequality, foster regional economic integration and good jobs, and restore faith in democracy by delivering for working people across the region.

The East Room Declaration

The Biden administration's goal is to create a new platform for ongoing engagements between the governments on issues of mutual concern. To facilitate this cooperation, the leaders established basic mechanics for the new Partnership at the summit. The main highlights of the East Room Declaration are as follows:

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[42] "Brown Demands the Biden Administration Remove the Trade Pillar from The Indo-Pacific Economic Framework," November 9, 2023, accessible here: https://www.brown.senate.gov/newsroom/press/release/sherrod-brown-demands-biden-administration-remove-trade-pillar-indo-pacific-economic-framework.

[43] Eight countries were represented by their presidents (Colombia, Costa Rica, Chile, Ecuador, Dominican Republic, Peru, United States, Uruguay), two by their Prime Ministers (Barbados and Canada); and two by their Ministers of Foreign Affairs (Mexico and Panama).

- **Format**. APEP will be a leaders' forum for deepening economic collaboration and integration in the Western Hemisphere. It will serve as a regional platform to pursue "an ambitious, flexible, and goal-oriented economic and development agenda."
- **Priorities**. The leaders identified five initial cross-cutting priorities: (i) strengthening regional competitiveness and integration; (ii) fostering shared prosperity and good governance; (iii) building sustainable infrastructure; (iv) protecting the climate and environment; and (v) promoting healthy communities.
- **Implementation**. The leaders established three Ministerial tracks: (i) the Trade Track; (ii) the Foreign Affairs Track; and (iii) the Finance Track. The ministers will meet every year to ensure progress along each of the three tracks. The leaders will reconvene every two years to update the collective priorities. Costa Rica offered to host the next Americas Partnership Leaders' Summit in 2025.

Initial agenda for the three tracks

The **Trade Track** will build on existing trade links and economic cooperation among participants. Participants will enhance regional integration with two main objectives:

- Build resilient supply chains for goods and services, harnessing their respective complementarities. The focus will be on three initial priority sectors: (i) clean energy, (ii) medical supplies, and (iii) semiconductors.
- Advance implementation of the WTO Agreement on Trade Facilitation and digitization of customs mechanisms throughout the region to create a more a predictable and transparent regulatory environment that can boost trade flows and remove barriers to greater economic integration among the participant countries.

The trade track does not immediately propose any specific new efforts to reduce trade barriers, leaving discussion of that to future ministerial deliberation. The leaders call for the ministers to perform regulatory gap analyses to determine what actions the governments could take to enhance regional integration and better include SMEs in trade. USTR will lead this track for the United States.

The **Foreign Affairs Track** will prioritize collaborative initiatives aimed at fostering inclusive growth through different actions.

- Establish a regional accelerator for entrepreneurs and programs to foster workforce development, particularly in the digital economy. The United States Agency for International Development (USAID) and the government of Canada are funding the establishment of the Americas Partnership Accelerator to support several hundred entrepreneurs in the region. The US State Department will also host a series of semiconductor workforce development symposiums in the region, with the first event scheduled for Costa Rica in February 2024.
- Advance projects and initiatives that will help to tangibly improve access to healthcare, drinking water, clean energy, food, and nutritional security, as well as support smart agriculture and protect against climate change through sound adaptation and mitigation practices.
- Explore efforts to deepen existing commitments to anti-corruption and transparency efforts.

The **Finance Track** will prioritize efforts to leverage new and existing development finance tools.

- The statement backs the new reform consensus for the Inter-American Development Bank (IDB) and the Inter-American Investment Corporation (IDB Invest).
- The US International Development Finance Corporation (DFC) is planning a new financing platform in partnership with IDB Invest to support infrastructure and critical economic sectors in the region to promote

environmental conservation and address climate challenges. The IDB is establishing a new program to support such environmental programs, including debt-for-nature swaps and blue/green bonds, with funding expected from the United States and Canada.

According to a White House press release,[44] the objective is to establish an innovative joint investment platform that aims to channel billions of dollars in financing for sustainable infrastructure and critical economic sectors in the Americas. The investments of the Americas Partnership Platform will help build modern ports, clean energy grids, and digital infrastructure necessary for a competitive and resilient economy.

New partners

Other countries in the Americas are deliberating whether APEP is worth joining, with Paraguay recently expressing interest. Participants will develop a process to invite additional countries in the Americas to join and contribute to this initiative as long as they adhere to certain "high standards" (*i.e.*, a more open, fair, inclusive, sustainable, and prosperous hemisphere) and "shared values" (*i.e.*, democracy, rule of law, diversity and inclusion, decent work and well-paying jobs, environmental and social protection, labor rights, universal human rights, and fundamental freedoms). This would exclude countries such as Cuba, Nicaragua, and Venezuela.

The origins of APEP

The Biden administration hopes to rebuild links with Latin America following several years during which the United States distanced itself from the region, losing geo-strategic and economic influence. The absence of a US economic agenda for the hemisphere has created a vacuum that has allowed China to gain increasing influence through trade and investment, which is now raising alarms in Washington. The United States has been spurred to action by the COVID-19 pandemic, adverse impacts of climate change, other potential sources of disruption to global supply chains, popular discontent with high levels of immigration, and competing initiatives from China (the Belt and Road Initiative (BRI), which has already been joined 22 Latin American and Caribbean countries) and the European Union (the "Global Gateway" initiative, which is part of the "EU's New Agenda for Relations between the EU and Latin America and the Caribbean," adopted in June 2023).

President Biden first announced APEP at the June 2022 Summit of the Americas. The agreement was originally presented as an economic cooperation framework resembling IPEF. At the time, the United States proposed the agreement could cover reinvigorating the Inter-American Development Bank, supply chain security, tax, and anti-corruption programs, improving public services, accelerating the green energy transition, labor rights, and trade facilitation, but provided little detail on what these topics would include.[45]

Since APEP's announcement in June 2022, however, there has been little further progress in negotiations. On January 27, 2023, US Secretary of State Antony J. Blinken and USTR Ambassador Katherine Tai co-hosted a ministerial-level event to advance APEP with representatives from the inaugural countries. However, that proposal failed to gain support from 22 other countries in the region, including Argentina and Brazil, and never moved to text-based negotiations.

The new approach announced on November 3 makes little mention of the original economic integration goals related to customs procedures, trade facilitation, good regulatory practices, and non-tariff barriers. APEP could pivot back to traditional economic integration interests in the future (and some members of the US Congress are calling for deepening trade commitments in the region), though the politics of comprehensive trade agreements has become

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[44] The White House press release is accessible here: https://www.whitehouse.gov/briefing-room/statements-releases/2023/11/03/fact-sheet-president-biden-hosts-inaugural-americas-partnership-for-economic-prosperity-leaders-summit/.

[45] "Fact Sheet: President Biden Announces the Americas Partnership for Economic Prosperity," June 2022, accessible here: https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/08/fact-sheet-president-biden-announces-the-americas-partnership-for-economic-prosperity/.

difficult in Washington. With the United States presidential elections in 2024, making meaningful compromises on trade policy will become even more unworkable for US domestic politics. Special Presidential Adviser for the Americas Chris Dodd noted this scheduling challenge during a follow-up discussion on November 6, saying "the campaign's going to take over in this country [next year]."[46]

The United States currently has FTAs with eight of the APEP countries (Canada, Chile, Colombia, Costa Rica, Dominican Republic, Mexico, Panama, and Peru), a preferential tariff scheme with Barbados as part of the Caribbean Basin Initiative (CBI), and Trade and Investment Framework Agreements with Ecuador and Uruguay.

The East Room Declaration is accessible here: https://www.whitehouse.gov/briefing-room/statements-releases/2023/11/03/east-room-declaration-of-the-leaders-of-the-americas-partnership-for-economic-prosperity/.

CPTPP

CPTPP Members Hold Ministerial Meeting; Endorse Terms of Reference for CPTPP General Review

On November 15, 2023, Ministers from the 12 Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) member states - Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, United Kingdom (UK), and Vietnam - met in San Francisco for their latest ministerial meeting. The Ministers welcomed the successful completion of the UK's accession process, which has now shifted to the completion of respective domestic procedures by each member country to bring the Protocol on the Accession of the UK to CPTPP into force.

The Ministers endorsed the Terms of Reference (TOR) for the CPTPP General Review, which aim to support the maximum utilization of the agreement. The objectives of the General Review include: (i) reviewing the operation of the CPTPP to ensure that the provisions contained in the agreement remain relevant to the trade and investment issues in the current economic and trade environment; (ii) identifying the potential for the inclusion of new provisions and those that would benefit from revision or updating; (iii) reviewing the implementation of the CPTPP to improve the uptake of the agreement by stakeholders; and (iv) ensuring that the agreement remains of the highest possible standard.[47]

The General Review process will commence in 2024 and will involve the work of all committees, working groups, and any other subsidiary bodies established under the agreement. A coordinating group for the General Review will oversee the review process and conduct assessment at the chapter level. The parties will continue further work on the General Review as prescribed in the TOR based on the previous work including the preliminary technical exchanges on the evaluation of the agreement in 2021 and the analytical studies undertaken on its impact at the research conference in 2022. The final report by the coordinating group for the General Review will be submitted to senior officials for discussion and confirmation by consensus. If agreed, the CPTPP General Review report will be presented to the 2025 Commission with proposed recommendations from senior officials on next steps.

Meanwhile, the Ministers reiterated that the CPTPP is open to accession requests by economies that are ready to meet the high standards of the agreement. Such economies should also demonstrate trade patterns, which comply with CPTPP commitments. Besides the UK, there are six accession requests to join the CPTPP to date from China, Taiwan, Costa Rica, Ecuador, Uruguay, and Ukraine. At this stage, the CPTPP members are undertaking an information-gathering process on whether these six economies can meet the CPTPP's high standards based on their

[46] "The future of economic partnership between the US, Europe, and LAC," Atlantic Council, recording accessible here: https://www.atlanticcouncil.org/event/the-future-of-economic-partnership-between-europe-and-the-americas/.

[47] The TOR for the CPTPP General Review is accessible here: https://www.mti.gov.sg/-/media/MTI/Newsroom/Press-Releases/2023/11/Terms-of-Reference-for-the-CPTPP-General-Review-November-2023.pdf.

existing trade commitments. CPTPP membership requires unanimous consent from all CPTPP members, including from the UK.

Looking ahead, it remains uncertain whether CPTPP members will consider China's request to join the agreement despite it being next in line. While China's accession would generate significant economic benefits given its strong connections with the CPTPP region, some CPTPP members, such as Japan and Canada, have voiced their opposition citing China's adherence to the high standards of the agreement remains in doubt, particularly in the areas of digital trade, industry subsidies, preferential treatment for state-owned enterprises, and the use of economic coercion against some CPTPP members.

Should China become a CPTPP member, there are concerns that China could block Taiwan's entry into the agreement owing to the consensus requirement for new members. Nevertheless, Taiwan's Head of the Ministry of Foreign Affairs (MOFA) Lien Yu-Ping reiterated a window of opportunity for Taiwan's potential accession to the CPTPP as Canada will assume the CPTPP chairmanship in 2024. To take advantage of the opportunity, the MOFA has laid out an action plan, which includes establishing unofficial dialogues with existing CPTPP members before the establishment of an accession working group. In this context, Taiwan will likely engage in direct dialogue with CPTPP member states that are considered to be more open to Taiwan's inclusion including Australia, Canada, Japan, New Zealand, and the UK.

APEC

United States Hosts 30th APEC Leaders' Meeting: Key Outcomes and Looking Ahead

The Leaders of the 21 economies of the Asia-Pacific Economic Cooperation (APEC) met for the 30th APEC Economic Leaders' Meeting (AELM) in San Francisco on November 16-17, 2023, under the theme of "Creating a Resilient and Sustainable Future for All."[48] The convening of AELM follows a series of related APEC meetings including (i) the Finance Ministers' meeting, chaired by US Treasury Secretary Janet Yellen on November 12-13, 2023; (ii) the APEC Ministerial meeting, co-chaired by US Secretary of State Antony Blinken and US Trade Representative Katherine Tai on November 14-15, 2023; and (iii) the APEC CEO Summit. These meetings conclude the United States' 2023 APEC host year, during which President Joe Biden led efforts to promote sustainability, with themes focused on the energy transition, enhancing digital skills, and improving supply chain resilience.

APEC's 2023 Outcomes

During the AELM, the Leaders endorsed a consensus declaration named "the Golden Gate Declaration,"[49] which seeks to achieve APEC economies' sustainability and inclusion objectives. The Declaration was issued alongside a companion Chair's statement, which discussed security issues on which the parties could not reach consensus.[50] Similarly, Secretary Blinken and Ambassador Tai joined their counterparts in issuing a consensus joint ministerial statement and a Chair's statement.[51] Key outcomes under the US chairmanship are arranged according to three cross-cutting policy agendas including: (i) the Manoa Agenda for Sustainable and Inclusive Economies; (ii) the Digital

[48] APEC's 21 member economies are: Australia, Brunei, Canada, Chile, China, Hong Kong, Indonesia, Japan, Korea, Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, the Philippines, Russia, Singapore, Taiwan, Thailand, the United States, and Vietnam.

[49] "2023 APEC Leaders' Golden Gate Declaration," accessible here: https://www.whitehouse.gov/briefing-room/statements-releases/2023/11/17/2023-apec-leaders-golden-gate-declaration/.

[50] "Chair's Statement on the APEC Economic Leader's Meeting," accessible here: https://www.whitehouse.gov/briefing-room/statements-releases/2023/11/17/chairs-statement-on-the-apec-economic-leaders-meeting/.

[51] "2023 APEC Ministerial Meeting Joint Ministerial Statement," accessible here: https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/november/2023-apec-ministerial-meeting-joint-ministerial-statement; and "Chairs' Statement on the 2023 APEC Ministerial Meeting," accessible here: https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/november/chairs-statement-2023-apec-ministerial-meeting.

Pacific Agenda; and (iii) the Bay Area Agenda on Resilient and Inclusive Growth. Each of these agendas are discussed below.

- The Manoa Agenda for Sustainable and Inclusive Economies

  Under the Manao Agenda, APEC Leaders agreed to enhance climate mitigation and resilience efforts by promoting zero and low emissions technologies. The Energy Ministers reached consensus on the APEC Just Energy Transition Initiative and endorsed the Non-Binding Just Energy Transition Principles for APEC Cooperation, a set of principles seeking to improve clean energy transitions within the region by engaging the workforce, private companies, investors, and communities. The APEC Leaders also agreed to maintain momentum from Thailand's 2022 chairmanship on the Bio-Circular Green (BCG) Economy Pledge, which involves private sector commitment to implement BCG goals collectively.

  The Leaders acknowledged the need to ensure food security and thus finalized the Principles for Achieving Food Security Through Sustainable Agri-food Systems. The US Department of Agriculture (USDA) also introduced a Food Security Dashboard to equip policymakers with information on the role of trade in food security and give guidance on how to provide food to countries in need. During the US chairmanship year, the United States led 22 agriculture-related workshops to provide capacity building by sharing experiences, innovative production technologies, and best practices of US agri-food industries.

  On infrastructure and transportation networks, the Leaders acknowledged the launch of the APEC Green Maritime Collaboration project, which seeks to support small and medium-sized APEC ports to develop low and zero emissions capital investment and port management plans. Meanwhile, the APEC Automotive Dialogue endorsed policy recommendations to increase demand for low or zero emission vehicles as well as enhance cooperation between APEC economies to increase production of low and zero-emission vehicle batteries.

- **Digital Pacific Agenda**

  Under the Digital Pacific Agenda, the United States together with other APEC members agreed to work on rules and policies to govern the digital economy, ensure secure digital access for consumers and businesses, and facilitate the development and deployment of emerging digital technologies. The United States held trade policy dialogues on digital trade, seeking to build regulatory environments to facilitate the free flow of data. The United States also launched a dialogue on new and emerging low-earth orbit satellite communication systems to extend connectivity in the APEC region.

  In May 2023, APEC Trade Ministers endorsed Principles for the Interoperability of E-Invoicing Systems, which aim to promote interoperable approaches and the use of digital technologies to facilitate trade and investment. The APEC Parties also endorsed the Recommendations for Cloud Transformation in APEC, which aims to promote the adoption of cloud computing technologies in the region. They also endorsed the Principles for Facilitating Access to Open Government Data in a bid to enhance cooperation among different jurisdictions to promote interoperability and access to public sector data.

- **Bay Area Agenda on Resilient and Inclusive Growth**

  Under the Bay Area Agenda, the APEC Leaders welcomed the San Francisco Principles on Integrating Inclusivity and Sustainability into Trade and Investment Policy,[52] which reflects APEC's intent to focus the development of trade policy on sustainability and inclusivity. The APEC Parties also endorsed the APEC Non-Binding Guidelines

[52] "San Francisco Principles on Integrating Inclusivity and Sustainability into Trade and Investment Policy," accessible here: https://www.apec.org/meeting-papers/leaders-declarations/2023/2023-leaders-declaration/san-francisco-principles-on-integrating-inclusivity-and-sustainability-into-trade-and-investment-policy.

on Logistics-related Services that Support the Movement of Essential Goods During a Public Health Emergency.[53] The guidelines seek to promote good regulatory practices, trade measures, and digitalization for logistics-related services.

The San Francisco Principles were a success for Ambassador Tai and the Biden administration, who are developing a new worker centric approach to trade policy. The San Francisco Principles feature a broad voluntary principle of leveraging trade and investment policies to benefit small- and medium-sized enterprises, women, indigenous peoples, rural populations, and people with disabilities. Environmental sustainability and circular economy principles also feature in the principles, building upon the BCG Economy Pledge. The APEC Committee on Trade and Investment is tasked with implementing the principles, with potential activities to include voluntary capacity-building programs, information sharing, and dialogues. USTR further highlighted that as part of the APEC inclusivity agenda, that it has held APEC dialogues with labor leaders and indigenous peoples, promoted inclusive data practices through the Facilitating Access to Open Government Data guidelines, prioritized inclusive public consultations, and promoted intellectual property protections.[54]

US-China relations

President Biden and Chinese President Xi Jinping met on November 15, 2023, for their first in person discussions since the G20 in Indonesia in November 2022. This meeting served as a key opportunity for stabilizing bilateral relations between the two countries. Despite low expectations, the Biden-Xi Summit has produced some useful results including the resumption of direct military-to-military contacts, agreements to discuss potential risks of AI, closer cooperation on drug trafficking, and cooperation on climate change. This development is helpful for both leaders in the year ahead as President Biden can focus on his re-election campaign, while President Xi can focus on China's domestic economy.

APEC in 2024

Following the AELM meeting, the United States will pass the APEC host year responsibilities to Peru as the APEC chair in 2024. During its 2024 APEC chairmanship, Peru will organize more than 150 ministerial and technical meetings in Trujillo, Arequipa, Cusco, Pucallpa, and Lima. Peru's chairmanship agenda includes (i) prioritizing trade and investment for inclusive growth; (ii) promoting the transition to the formal economy and the integration to global supply chains by innovation; and (iii) pursuing sustainable growth for resilient development.

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[53] "APEC Non-Binding Guidelines on Logistics-related Services that Support the Movement of Essential Goods During a Public Health Emergency," accessible here: https://www.apec.org/meeting-papers/annual-ministerial-meetings/2023/2023-apec-ministerial-meeting/apec-non-binding-guidelines-on-logistics-related-services-that-support-the-movement-of-essential-goods-during-a-public-health-emergency.

[54] "FACT SHEET: USTR's Contributions to 2023 U.S. APEC Host Year," accessible here: https://ustr.gov/about-us/policy-offices/press-office/fact-sheets/2023/november/fact-sheet-ustrs-contributions-2023-us-apec-host-year.

Petitions & Investigations

Investigations

ITC Issues Affirmative Preliminary Determination in Aluminum Lithographic Printing Plates ADD Investigations for China and Japan and a CVD Investigation for China

On November 13, 2023, the US International Trade Commission (ITC) issued its preliminary determination that there is a reasonable indication that US industry is materially injured by imports of aluminum lithographic printing plates from China and Japan that are alleged to be sold in the United States at less than fair value and subsidized by China.[55] With an affirmative preliminary determination from the ITC, the DOC's investigations will continue as scheduled. The ITC will also commence the final phase of its own investigation. ITC will publish the schedule for its final investigation in the Federal Register upon the completion of DOC's preliminary determinations.

Previously, on October 25, 2023, DOC announced the initiation of the less-than-fair-value investigations concerning imports of aluminum lithographic printing plates (printing plates) from China and Japan. DOC will investigate whether imports of printing plates from China and Japan are being, or are likely to be, sold in the United States at less than fair value. The period of investigation for Japan is July 1, 2022, through June 30, 2023, while for China it will be January 1, 2023, through June 30, 2023 (as China is a non-market economy). DOC concurrently issued an initiation notice of a CVD investigation on printing plates from China.[56] The DOC's preliminary CVD determination is expected by December 22, 2023, and the preliminary ADD determination is expected on March 6, 2023.

The investigation is in response to a petition from Eastman Kodak Company, which was filed on September 28, 2023. The petitioner alleges that the covered products are sold in the United States at less than fair value by China and Japan. The petition alleges dumping margins of 107.64% for China and 23.52% for Japan. The CVD petition against China accompanied the ADD petition and alleges that the government of China is providing countervailable subsidies to producers of printing plates in China.

Covered product

The covered products are aluminum lithographic printing plates under HTSUS 3701.30.0000 and 3701.99.6060. The product may also enter under HTSUS 3701.99.3000 and 8442.50.1000. The written description of the covered product, included below, is dispositive. This description has been slightly revised following requests for clarification from DOC to the petitioner.

Aluminum lithographic printing plates consist of a flat substrate containing at least 90 percent aluminum. The aluminum-containing substrate is generally treated using a mechanical, electrochemical, or chemical graining process, which is followed by one or more anodizing treatments that form a hydrophilic layer on the aluminum-containing substrate. An image-recording, oleophilic layer that is sensitive to light, including but not limited to ultra-violet, visible, or infrared, is dispersed in a polymeric binder material that is applied on top of the hydrophilic layer, generally on one side of the aluminum lithographic printing plate. The oleophilic light-sensitive layer is capable of capturing an image that is transferred onto the plate by either light or heat. The image applied to an aluminum lithographic printing plate facilitates the production of newspapers, magazines, books, yearbooks, coupons, packaging, and other printed materials through an offset printing process, where an aluminum lithographic printing plate facilitates the transfer of an image onto the printed media. Aluminum lithographic printing plates within the

[55] "Aluminum Lithographic Printing Plates From China and Japan," 88 FR 80338 (November 17, 2023), accessible here: https://www.federalregister.gov/documents/2023/11/17/2023-25402/aluminum-lithographic-printing-plates-from-china-and-japan.

[56] "Aluminum Lithographic Printing Plates From the People's Republic of China: Initiation of Countervailing Duty Investigation," 88 FR 73313 (October 25, 2023), accessible here: https://www.federalregister.gov/documents/2023/10/25/2023-23531/aluminum-lithographic-printing-plates-from-the-peoples-republic-of-china-initiation-of.

scope of this investigation include all aluminum lithographic printing plates, irrespective of the dimensions or thickness of the underlying aluminum substrate, whether the plate requires processing after an image is applied to the plate, whether the plate is ready to be mounted to a press and used in printing operations immediately after an image is applied to the plate, or whether the plate has been exposed to light or heat to create an image on the plate or remains unexposed and is free of any image.

Subject merchandise also includes aluminum lithographic printing plates produced from an aluminum sheet coil that has been coated with a light-sensitive image-recording layer in a subject country and that is subsequently unwound and cut to the final dimensions to produce a finished plate in a third country (including the United States), or exposed to light or heat to create an image on the plate in a third country (including in a foreign trade zone within the United States).

Excluded from the scope of this investigation are lithographic printing plates manufactured using a substrate produced from a material other than aluminum, such as rubber or plastic.

DOC Issues Preliminary Results and a Partial Rescission for Administrative Review of ADD Order on Certain Hot-Rolled Steel Flat Products from Japan

On November 6, 2023, the Department of Commerce (DOC) issued preliminary findings in its 2021-2022 administrative of hot-rolled steel flat products from Japan that one of two subject producers/exporters was selling the subject product at less than normal value during the period of review while the other was not.[57] DOC also rescinded the administrative review for a third producer/exporter, JFE Shoji Corporation/JFE Steel Corporation (JFE), after the party requesting JFE's review withdrew and no other parties requested the review continue.

DOC found the preliminary weighted-average dumping margins to be 1.39% for Nippon Steel Corporation/Nippon Steel Nisshin Co., Ltd./Nippon Steel Trading Corporation (NSC) and 0.00% for Tokyo Steel Manufacturing Co., Ltd. (Tokyo Steel). DOC will publish its final results, including responses to any rebuttal briefs filed in response to this preliminary determination, no later than 120 days after the publication of the preliminary determination (unless DOC extends the timeline). DOC will then issue new duty assessment instructions to US Customs and Border Protection. The all-others duty rate will remain at 5.58%.

DOC initiated the review in December 2022 for NSC, JFE, and Tokyo Steel and originally selected NSC and JFE as mandatory respondents. The company requesting review for JFE, however, withdrew its request on March 3, 2023. DOC subsequently preliminary rescinded the review for JFE and selected Tokyo Steel as an additional mandatory respondent. DOC then extended the deadline for the preliminary determination from June 27, 2023, to October 31, 2023.

ITC Issues Preliminary Affirmative Determination in ADD/CVD Investigation of Aluminum Extrusions from Thailand and 14 Other Countries

On November 21, 2023, the ITC issued its preliminary affirmative determination that there is that there is a reasonable indication that US industry is materially injured or threatened with material injury by imports of aluminum extrusions from China, Colombia, Ecuador, India, Indonesia, Italy, Malaysia, Mexico, South Korea, Taiwan, Thailand, Turkey, United Arab Emirates and Vietnam that are alleged to be sold in the United States at less than fair value and to be subsidized by the governments of China, Indonesia, Mexico, and Turkey.[58] Full investigations into those

[57] "Notice Certain Hot-Rolled Steel Flat Products From Japan: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2021-2022," 88 FR 76170 (November 6, 2023), accessible here: https://www.federalregister.gov/documents/2023/11/06/2023-24491/certain-hot-rolled-steel-flat-products-from-japan-preliminary-results-and-partial-rescission-of.

[58] "Aluminum Extrusions From China, Colombia, Dominican Republic, Ecuador, India, Indonesia, Italy, Malaysia, Mexico, South Korea, Taiwan, Thailand, Turkey, United Arab Emirates, and Vietnam," November 27, 2023 (88 FR 82913),

countries at the ITC and DOC will proceed. The preliminary investigation into imports from the Dominican Republic however found that imports are negligible so ITC has terminated the investigation specifically for the Dominican Republic.

DOC, for its part, initiated the less-than-fair-value investigations on October 24, 2023.[59] The period of investigation for the Colombia, Dominican Republic, Ecuador, India, Indonesia, Italy, Korea, Malaysia, Mexico, Taiwan, Thailand, Turkey, and the UAE ADD investigations is October 1, 2022, through September 30, 2023, and April 1, 2023, through September 30, 2023, for China and Vietnam.

The dumping margins described in DOC's ADD investigation vary by country as follows: 376.85% (China); 165.25% (Colombia); 28.29% (Dominican Republic); 42.79-63.21% (Ecuador); 39.05% (India); 88.53% (Indonesia); 41.67% (Italy); 25.89-27.51% (Malaysia); 76.68-82.03% (Mexico); 43.56% (South Korea); 60.25-67.86% (Taiwan); 76.73% (Thailand); 48.43% (Turkey); 42.29% (UAE); and 41.84% (Vietnam). According to the petitioners' data, the United States imported 9,540 short tons of the covered product with a landed value of $62,968,577 from Thailand in 2022. The petition names the Thai producers and exporters Almet Thai Co., Ltd.; Bangladesh Thai Aluminium, Ltd.; Gold Star Metal Co., Ltd.; Muang Thang Aluminium Industry Co., Ltd.; Schimmer Metal Standard Co.; Thai Metal Aluminium Co., Ltd.; Tostem Thai Co., Ltd.; and United Aluminium Industry Co., Ltd. The petitions were filed on October 4, 2023, the US Aluminum Extruders Coalition and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union.

Covered product

The merchandise subject to this investigation is aluminum extrusions, regardless of form, finishing, or fabrication, whether assembled with other parts or unassembled, whether coated, painted, anodized, or thermally improved. DOC has modified the coverage slightly after receiving clarifications from the petitioner, as described in the initiation notice. Aluminum extrusions are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by the Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents). Specifically, subject aluminum extrusions made from an aluminum alloy with an Aluminum Association series designation commencing with the number 1 contain not less than 99 % aluminum by weight. Subject aluminum extrusions made from an aluminum alloy with an Aluminum Association series designation commencing with the number 3 contain manganese as the major alloying element, with manganese accounting for not more than 3.0% of total materials by weight. Subject aluminum extrusions made from an aluminum alloy with an Aluminum Association series designation commencing with the number 6 contain magnesium and silicon as the major alloying elements, with magnesium accounting for at least 0.1% but not more than 2.0% of total materials by weight, and silicon accounting for at least 0.1% but not more than 3.0% of total materials by weight. The scope also includes merchandise made from an aluminum alloy with an Aluminum Association series designation commencing with the number 5 (or proprietary equivalents or other certifying body equivalents) that have a magnesium content accounting for up to but not more than 2.0% of total materials by weight.

Imports of the subject merchandise are primarily provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 7604.10.1000; 7604.10.3000; 7604.10.5000; 7604.21.0010; 7604.21.0090; 7604.29.1010; 7604.29.1090; 7604.29.3060; 7604.29.3090; 7604.29.5050; 7604.29.5090; 7608.10.0030; 7608.10.0090; 7608.20.0030; 7608.20.0090; 7609.00.0000; 7610.10.0010; 7610.10.0020; 7610.10.0030;

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https://www.federalregister.gov/documents/2023/11/27/2023-26057/aluminum-extrusions-from-china-colombia-dominican-republic-ecuador-india-indonesia-italy-malaysia.

[59] "Aluminum Extrusions From the People's Republic of China, Colombia, the Dominican Republic, Ecuador, India, Indonesia, Italy, the Republic of Korea, Malaysia, Mexico, Taiwan, Thailand, the Republic of Turkey, the United Arab Emirates, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations," 88 FR 74421 (October 31, 2023), https://www.federalregister.gov/documents/2023/10/31/2023-23962/aluminum-extrusions-from-the-peoples-republic-of-china-colombia-the-dominican-republic-ecuador-india.

7610.90.0040; and 7610.90.0080. The subject merchandise may also enter as components of products under other HTSUS codes.[60] The country of origin of the aluminum extrusion is determined by where the metal is extruded (i.e., pressed through a die).

[60] Imports of the subject merchandise, including subject merchandise entered as parts of other products, may also be classifiable under the following additional HTSUS categories, as well as other HTSUS categories: 6603.90.8100; 7606.12.3091; 7606.12.3096; 7615.10.2015; 7615.10.2025; 7615.10.3015; 7615.10.3025; 7615.10.5020; 7615.10.5040; 7615.10.7125; 7615.10.7130; 7615.10.7155; 7615.10.7180; 7615.10.9100; 7615.20.0000; 7616.10.9090; 7616.99.1000; 7616.99.5130; 7616.99.5140; 7616.99.5190; 8302.10.3000; 8302.10.6030; 8302.10.6060; 8302.10.6090; 8302.20.0000; 8302.30.3010; 8302.30.3060; 8302.41.3000; 8302.41.6015; 8302.41.6045; 8302.41.6050; 8302.41.6080; 8302.42.3010; 8302.42.3015; 8302.42.3065; 8302.49.6035; 8302.49.6045; 8302.49.6055; 8302.49.6085; 8302.50.0000; 8302.60.3000; 8302.60.9000; 8305.10.0050; 8306.30.0000; 8414.59.6590; 8415.90.8045; 8418.99.8005; 8418.99.8050; 8418.99.8060; 8419.50.5000; 8419.90.1000; 8422.90.0640; 8424.90.9080; 8473.30.2000; 8473.30.5100; 8479.89.9599; 8479.90.8500; 8479.90.9596; 8481.90.9060; 8481.90.9085; 8486.90.0000; 8487.90.0080; 8503.00.9520; 8508.70.0000; 8513.90.2000; 8515.90.2000; 8516.90.5000; 8516.90.8050; 8517.71.0000; 8517.79.0000; 8529.90.7300; 8529.90.9760; 8536.90.8585; 8538.10.0000; 8541.90.0000; 8543.90.8885; 8547.90.0020; 8547.90.0030; 8708.10.3050; 8708.29.5160; 8708.80.6590; 8708.99.6890; 8807.30.0060; 9031.90.9195; 9401.99.9081; 9403.99.1040; 9403.99.9010; 9403.99.9015; 9403.99.9020; 9403.99.9040; 9403.99.9045; 9405.99.4020; 9506.11.4080; 9506.51.4000; 9506.51.6000; 9506.59.4040; 9506.70.2090; 9506.91.0010; 9506.91.0020; 9506.91.0030; 9506.99.0510; 9506.99.0520; 9506.99.0530; 9506.99.1500; 9506.99.2000; 9506.99.2580; 9506.99.2800; 9506.99.5500; 9506.99.6080; 9507.30.2000; 9507.30.4000; 9507.30.6000; 9507.30.8000; 9507.90.6000; 9547.90.0040; and 9603.90.8050.