

US Multilateral Trade and Policy Developments

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Trade Policy Developments

UFLPA Enforcement to Continue Strengthening in 2024

US Customs and Border Protection's (CBP) enforcement of the Uyghur Forced Labor Prevention Act (UFLPA) strengthened and expanded in 2023, affecting more product sectors, developing more comprehensive regulatory processes, and beginning to expand the UFLPA Entity List. Activity will likely continue intensifying in 2024 as CBP builds capacity, learns lessons from its early experiences, and responds to political pressure for tighter enforcement. Importers will likely see expanded enforcement across business sectors, more additions to the UFLPA Entity List, deeper investigations into the supply chains of priority sectors, and changes to the entry process for *de minimis* shipments.

Sectors and countries affected in 2023

The UFLPA applies a rebuttable presumption that goods mined, produced, or manufactured wholly or in part in China's Xinjiang Uyghur Autonomous Region or by an entity on the UFLPA Entity List are made with forced labor and restricted from entering the United States under Section 307 of the Tariff Act of 1930. Though the legislation targets labor abuses in Xinjiang, the complexity of modern industrial supply chains means that products imported into the United States from anywhere in the world can fall under suspicion. The latest detention data for 2023 highlights how CBP is closely examining complex manufacturing supply chains and industrial inputs.

Overall, in 2023, CBP detained 4,234 shipments worth US\$1.6 billion on suspicion of violating the UFLPA. Of these shipments, 1,477 have so far been denied entry, 1,674 have been released into the United States, and 1,083 are listed as still pending a decision.¹

□ CBP targets a broad range of products and businesses

The UFLPA's original enforcement strategy, as decided by Congress, required CBP to first prioritize cotton, tomatoes, and polysilicon, but the law applies to all products. Other than those three priorities, CBP's 2023 updates to the UFLPA enforcement strategy mention the following products as potential risk areas: red dates and other agricultural products, vinyl products, aluminum, steel, lead-acid and lithium-ion batteries, copper, electronics, and tires and other automobile components.² CBP leaders have also recently suggested they may add fisheries products to the list of priority sectors during the next strategy review in summer 2024.

The Forced Labor Enforcement Task Force's (FLETF) recent additions to the UFLPA Entity List reflect this broadening scope as well.³ In 2023, companies that produce sugar, fabric, batteries, magnetized electronic components, polyvinyl chloride, chemicals, and processed agricultural products were all added to the Entity List.

In general, CBP's leadership has said the agency is taking a risk-based approach that is examining all product sectors and business entities. In determining what shipments are high risk, CBP is considering whether goods are imported directly from Xinjiang, whether goods may have been transshipped to conceal a Xinjiang origin, and whether goods not from Xinjiang may be linked to an entity in Xinjiang or contain inputs that are from Xinjiang.

□ Sectors most affected by recent UFLPA enforcement

Electronics shipments accounted for most of CBP's UFLPA detentions in 2023: \$1.3 billion out of the \$1.6 billion in total detained value (80%) in 2023 was in the electronics sector. Though CBP does not provide more detailed data on what these electronics shipments contain, media reporting suggests that most of the products detained under the electronics category are solar panels (which contain polysilicon – a priority product for UFLPA enforcement).

¹ All data is from the CBP Uyghur Forced Labor Prevention Act Statistics dashboard (accessed January 30, 2024), accessible here: <https://www.cbp.gov/newsroom/stats/trade/uyghur-forced-labor-prevention-act-statistics>.

² "2023 Updates to the Strategy to Prevent the Importation of Goods Mined, Produced, or Manufactured with Forced Labor in the People's Republic of China," July 26, 2023, accessible here: https://www.dhs.gov/sites/default/files/2023-08/23_0728_plcy_uflpa-strategy-2023-update-508.pdf.

³ UFLPA Entity List, accessible here: <https://www.dhs.gov/uflpa-entity-list>.

Beginning in spring 2023, the base metals sector quickly grew to become the second largest UFLPA detention category by value. Cumulatively, CBP has detained 249 base metals shipments worth \$119 million since March 2023. CBP detained few or no base metals shipments in the first year of UFLPA enforcement. Political scrutiny may increase this focus on metals further in 2024. A new report from Human Rights Watch, for example, spotlighted efforts by the Chinese government to expand the aluminum industry in Xinjiang.⁴ The pharmaceuticals, health, and chemicals sectors also stand out for large increases in detention value in spring 2023, though less than base metals.

The apparel and industrial and manufacturing material sectors are also notable: 721 apparel and 943 industrial and manufacturing material shipments were detained in 2023, which combined is about the same number of detentions as for electronics. The value of these detained shipments is smaller however: detained apparel shipments were worth \$25 million and detained industrial and manufacturing material shipments were worth \$59 million. Industrial and manufacturing material shipment detention surged in early 2023 but has now fallen somewhat. Apparel has been an enforcement target for some time since cotton was among the original priority products. A large share of Chinese cotton originates in Xinjiang

CBP has also detained hundreds of shipments worth millions of dollars in the agriculture and prepared food products sector, consumer products, machinery, and automotive sectors. These sectors also saw increases in detention activity in 2023 relative to the earlier months of enforcement in 2022 (reflecting how CBP's sectoral focus may be broadening) but remain at lower levels than the other sectors.

□ Countries of origin for detained shipments

The largest origin points for shipments detained under UFLPA by value in 2023 are Malaysia, Vietnam, and Thailand, as opposed to China. These three countries accounted for \$1.3 billion worth of detained shipments and 83% of total detained value in 2023. Almost all this detained value is from the electronics sector, which may be linked to regional supply chains for solar panels and polysilicon. Other origin points for detained imports include India, Sri Lanka, Nicaragua, the Philippines, Canada, Hong Kong, Mexico, Poland, Japan, and South Korea. CBP lists two detained shipments from Japan: one machinery shipment worth \$2 million and one small electronics shipment.

Counterintuitively, since UFLPA entered effect, only 34% of shipments detained by CBP originated in China. In terms of value, the gap is even larger: shipments from China only account for 13% of all detained value. The products represented in China's detained shipments are diverse. Detained shipments from China in 2023 are led by apparel in terms of number of shipments (373 out of 1,428) and base metals in terms of value (\$105 million out of \$247 million). Almost all detained shipments of agriculture products, consumer products, base metals, pharmaceuticals and chemicals, machinery, and automotive products. Unlike Southeast Asia, there are few detained electronics shipments from China.

The broad range of affected countries shows how CBP is examining multinational manufacturing supply chains closely, looking for possible backward linkages to Xinjiang. Manufacturers that do not have any direct association with Xinjiang or even with China can still fall under suspicion in those investigations. Addressing this risk requires comprehensive supply chain reviews that go beyond traditional sourcing arrangements.

Ongoing efforts to strengthen enforcement

As CBP continues to implement the new law, Congress is closely monitoring progress and is pressuring CBP to enforce the UFLPA more aggressively. The House of Representatives' Homeland Security Committee held a hearing

⁴ "Asleep at the Wheel: Car Companies' Complicity in Forced Labor in China," February 1, 2024, Human Rights Watch, accessible here: <https://www.hrw.org/report/2024/02/01/asleep-wheel/car-companies-complicity-forced-labor-china>.

on January 11, 2024, where senior officials from CBP, the Department of Homeland Security (DHS), and the Department of Labor testified about the status of UFLPA implementation.⁵ The hearing focused on reviewing enforcement efforts and looking for ways to improve, highlighting the ways in which the US government plans to tighten enforcement and expand the reach of the UFLPA in 2024. Key takeaways from the hearing and other recent announcements are summarized here.

□ **Fisheries industry scrutiny may grow**

Recent investigations by forced labor activists and Congress have highlighted alleged labor abuses in both the Chinese fishing industry and onshore fish processing.⁶ Seafood retailers have already responded to this public attention by reducing exposure to the facilities accused of abuses,⁷ but increased customs scrutiny may be coming next. During the January 11 hearing, officials testified that they may add fisheries to the UFLPA's priority sector list and that the FLETF is actively investigating alleged connections between Xinjiang and the fish processing industry.

□ **The UFLPA Entity List will keep growing in 2024**

The FLETF began adding new companies to the UFLPA Entity List in June 2023, after spending the first half of the year creating legal and investigative processes for listings. Throughout the rest of 2023, the FLETF added only 10 companies to the Entity List, which is fewer than Congress had expected.

The slow pace has attracted criticism from politicians and activists who believe that sufficient evidence exists to list many other companies. Members of Congress have even sent the FLETF lists of companies that members of Congress want added to the Entity List. On January 17, 2024, for example, the House of Representative's Select Committee on the Chinese Communist Party sent a letter requesting the FLETF add 29 specific companies. The list included some of China's largest steel smelters, fish processors, and minerals producers.⁸ These requests have no legal power on their own and the FLETF will investigate the companies individually before deciding whether to list them.

Addressing concerns about the slow pace of action, DHS officials at the January 11 hearing said the department is conducting a strategic review of the FLETF process. DHS intends to improve the Entity List process and accelerate listing companies in 2024. The FLETF, according to the testimony, has a new team of investigators focused on the Entity List. DHS leaders told Congress in the hearing that there will be more action on the list soon.

□ **Scrutiny of apparel and cotton is intensifying**

Cotton and apparel products have been a priority for CBP since the UFLPA entered force, and enforcement targeting the sector is set to intensify in 2024. CBP has adopted isotopic testing to track the origin of cotton in

⁵ "Exploitation And Enforcement Part II: Improving Enforcement in Countering Uyghur Forced Labor," January 11, 2024, Oversight, Investigations, & Accountability Subcommittee, accessible here: <https://democrats-homeland.house.gov/activities/hearings/exploitation-and-enforcement-part-ii-improving-enforcement-in-countering-uyghur-forced-labor>.

⁶ "From Bait To Plate—How Forced Labor In China Taints America's Seafood Supply Chain," October 24, 2023, Congressional-Executive Commission on China, accessible here: <https://www.cecc.gov/events/hearings/from-bait-to-plate-how-forced-labor-in-china-taints-the-american-seafood-industry>.

⁷ "US Government, Companies Face Complicated Path to Removing Uyghur Labor From Seafood Supply Chain," Seafood Source, October 23, 2023, accessible here: <https://www.seafoodsource.com/news/premium/supply-trade/us-government-companies-face-complicated-path-to-removing-uyghur-labor-from-seafood-supply-chain>.

⁸ "Letter to Secretary Mayorkas on Enforcement of the Uyghur Forced Labor Prevention Act," January 22, 2024, Select Committee on the CCP, accessible here: <https://selectcommitteeonthecpp.house.gov/media/letters/letter-secretary-mayorkas-enforcement-uyghur-forced-labor-prevention-act>.

apparel imports, taking samples from imported products to investigate specific allegations of Xinjiang origin and for general risk assessments. CBP's first in-house isotopic testing lab opened in late 2023 and two more will open in 2024. CBP's leaders expect the technique will let them ramp up enforcement against textiles and detect when apparel produced in third countries is using cotton sourced from Xinjiang. As scrutiny of cotton supply chains grows, apparel producers will have to carefully examine their cotton sources to ensure compliance.

CBP's intensified focus on cotton sourcing in the global apparel industry may already be bearing results. In November and December 2023, CBP detained large volumes of apparel shipments from the Philippines and Nicaragua. Fifty-five apparel shipments worth \$4.6 million were detained from the two countries over the two months, compared to 97 shipments worth \$1.1 million from China. Prior to those two months, CBP had never detained shipments from the Philippines and only ever detained six shipments from Nicaragua.

Besides forced labor concerns, the Biden administration is also leveraging tighter customs rules enforcement to protect the politically influential domestic textile industry from what they see as unfair foreign competition. In a January 30, 2024 meeting between Secretary of Homeland Security Alejandro Mayorkas and the National Council of Textile Organizations, US textile producers argued "the textile industry is suffering at the hands of unscrupulous individuals and entities who create an unfair market by circumventing the operation of our nation's free trade agreements, violating the Uyghur Forced Labor Prevention Act (UFLPA), and exploiting the *de minimis* shipment exception that is established in law."⁹ Secretary Mayorkas told the industry that DHS is increasing the targeting of illegal trade practices that harm the US textile industry and that the department is preparing a comprehensive enforcement action plan.

□ **Administrative improvements are continuing**

The UFLPA is a new program for CBP, and the agency is still implementing basic administrative processes like electronic filings. On January 27, 2024, CBP added new functions to the Automated Commercial Environment (ACE) Protest user interface that will allow importers to file UFLPA Notice of Exclusion protests within ACE.¹⁰ Alongside automating the protest process, CBP is automating detention notices. ACE Portal users will now receive Form 6051D detention notices by email and then respond within ACE Forms.¹¹ According to CBP, these upgrades will "enhance visibility for CBP and importers on the due dates for documentation submissions on detention notices and will do so much quicker than traditional postal mailings."¹²

In mid-2024, CBP also plans to deploy a new web portal where the public can submit forced labor allegations, WRO and Findings modification requests, and requests for exception, applicability, and admissibility reviews for UFLPA, the Countering America's Adversaries Through Sanctions Act (CAATSA), and WROs.

□ **Changes to the customs *de minimis* exception expected in 2024**

⁹ "Readout of Secretary of Homeland Security Alejandro N. Mayorkas' Meeting with the National Council of Textile Organizations," January 30, 2024, accessible here: <https://www.dhs.gov/news/2024/01/30/readout-secretary-homeland-security-alejandro-n-mayorkas-meeting-national-council>.

¹⁰ "CSMS # 59188461 - Forced Labor Updates to ACE Protest Set to Deploy on January 27," January 26, 2024, accessible here: <https://content.govdelivery.com/bulletins/gd/USDHSCBP-38724ed>.

¹¹ "Automation of CBP Form 6051D for Detentions of Cargo Filed in ACE, including UFLPA Detentions," January 22, 2024, accessible here: https://www.cbp.gov/sites/default/files/assets/documents/2024-Jan/Automation%20of%20CBP%20Form%206051D%20for%20Detentions%20of%20Cargo%20Filed%20in%20ACE%2C%20Including%20UFLPA%20Detentions_Trade_Information%20Notice%20-%20v1.22.24.pdf.

¹² "Commercial Customs Operations Advisory Committee Government Issue Paper Intelligent Enforcement Subcommittee Forced Labor Working Group," December 2023, accessible here: https://www.cbp.gov/sites/default/files/assets/documents/2023-Dec/IE_Forced_Labor_Issue_Paper_-_Dec_2023.pdf.

As Congress plans its last actions before the 2024 elections, a growing bipartisan effort to increase trade rules enforcement and tariffs for low-value shipments (known as *de minimis* shipments) is gaining traction in Washington. This focus has been reinforced by the rapid rise of Chinese direct-to-consumer e-commerce retailers since the COVID-19 lockdowns. The large amount of clothing these companies are shipping to the United States under *de minimis* has attracted concern from forced labor activists and their allies in Congress.¹³ Though some members of Congress have suggested more targeted approaches to the e-commerce concerns (like improving data sharing) recently introduced legislation would have far-reaching effects.

CBP is planning reforms of its own under current legal authorities, which would likely be completed faster than Congressional action. In recent engagements, CBP has said it intends to improve risk-based targeting for inspections of *de minimis* shipments through a series of administrative and regulatory changes this year. According to recent filings with the Office of Management and Budget (OMB), these changes could involve updated regulations that would require “additional data elements that would assist CBP in verifying eligibility for duty- and tax-free entry of low-value shipments and bona-fide gifts.”¹⁴

US International Trade Commission Asked to Investigate Global Rice Markets

On February 5, 2024, House Ways and Means Committee Chair Jason Smith (R-MO) called on the US International Trade Commission (ITC) to conduct a section 332 factfinding investigation for the global rice market.¹⁵ In his request for the study, Rep. Smith raises concerns about the declining export competitiveness of the US rice industry and suggests that foreign agricultural subsidies may be at fault, saying that he “strongly suspect[s] that unfair subsidies and other policies in foreign countries have contributed to a decrease in U.S. rice exports over the last decade, from \$2.2 billion in 2013 to \$1.7 billion in 2022.”

USITC will soon announce confirmation of the study and details of how it will approach the investigation. Once completed in early 2025, the study could help inform future trade enforcement actions and the WTO’s agriculture negotiations, where the United States is seeking commitments to more transparent subsidies reporting and reduced trade barriers.

The requested study

Rep. Smith asked that the study cover recent developments in the global rice industry, update the findings of the previous study from 2015, and investigate how subsidy programs are affecting US competitiveness. The letter lists several specific topics that ITC should include in its study:

- “Recent developments in the U.S. rice industry as well as those of other major global rice producers and exporters like Bangladesh, Brazil, China, India, Indonesia, Pakistan, Paraguay, Thailand, Uruguay, and Vietnam.”
- “Trade trends and developments in the global rice market that impact both U.S. and foreign imports and exports.”
- “Competitive strengths and weaknesses of U.S. and foreign rice producers, with a focus on how those factors affect costs, product differentiation, and supply chain reliability.”

¹³ See, for example, the House Select Committee on the Chinese Communist Party’s recent report recommending ending *de minimis* treatment of shipments from China, accessible here: <https://selectcommitteeontheccp.house.gov/media/press-releases/select-committee-ccp-overwhelmingly-adopts-proposals-uyghur-genocide-taiwan>.

¹⁴ Fall 2023 Unified Agenda of Regulatory and Deregulatory Actions, Entry of Low-Value Shipments, accessible here: <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202310&RIN=1515-AE84>.

¹⁵ “Chairman Smith Calls for Investigation into the Global Competitiveness of U.S. Rice Producers,” February 5, 2024, accessible here: <https://waysandmeans.house.gov/chairman-smith-calls-for-investigation-into-the-global-competitiveness-of-u-s-rice-producers/>.

- “A qualitative and quantitative assessment of what existing policies and programs are directly or indirectly affecting rice production and exports – including how such policies like export restrictions affect U.S rice production and prices as well as food security in developing countries.”
- “The impact on America’s rice industry from exports by other major rice producing countries to both the U.S. as well as traditional U.S. export markets.”

Rep. Smith is requesting that the ITC complete the report within 13 months. ITC will issue a statement confirming the details of the investigation, timeline, and the opportunities for public comment soon.¹⁶ Under section 332 of the Tariff Act of 1930, the president, Senate Finance Committee, House Ways and Means Committee, and the US Trade Representative (USTR) can instruct the ITC to conduct factfinding investigations on trade matters.

The USA Rice Federation, which has been lobbying Congress to request the study, welcomed Rep. Smith’s letter, saying that it hoped the study would “help inform future trade enforcement actions around rice at the WTO or through other mechanisms.”¹⁷ The US rice industry argues global policy changes and expansions of India’s subsidized exports have shifted the global market to the detriment of the US industry. USTR used the findings of the previous report to inform enforcement activities in the ensuing years and it is likely that a new study would assist market access work as well.

Previous ITC rice study

The new rice study would be a follow up to a 2015 ITC study,¹⁸ which Rep. Smith believes has become outdated. The 2015 study found that US rice producers were losing market share in export markets but faced little domestic import competition. The study identified extensive government interventions in global rice markets, arguing that “government intervention has affected trade and price trends in the world rice market more than it has for most other agricultural products” and that “rice is one of the most protected food commodities in the world.”

The 2015 study also found that tariffs and other trade restrictions on US rice exports were the largest challenges to US export competitiveness, reducing US rice exports by 1.3 million metric tons. Foreign subsidies, in contrast, only lowered US exports by 0.2 million metric tons. Besides those government market interventions, the study also found that changing consumer preferences, restrictions on genetically modified crops, challenges from comingling different varieties of long-grain rice, and droughts were all affecting the competitiveness of US exports.

Shifting global rice markets

US rice farmers export about half of their production, mostly to Latin America, Japan, and Canada.¹⁹ Because of that high export rate, the United States is the world’s fifth largest rice exporter while producing only 2% of the world’s total rice supply. Despite that significant role in global markets, US exporters have continued to lose market share since the 2015 ITC study.

US rice exports to Latin America face increasing competition from South American producers. In the past few years, India’s rice exports have also rapidly expanded and now account for almost half of global rice exports. The United States and US rice producers have accused India of underreporting its agriculture subsidies and exceeding WTO

¹⁶ ITC posts information on its ongoing factfinding investigations on its webpage, accessible here: https://www.usitc.gov/research_and_analysis/what_we_are_working_on.

¹⁷ “House W&M Chair Jason Smith Requests Updated USITC Study on Global Rice Trade Impacts,” February 5, 2023, accessible here: <https://www.usarice.com/news-and-events/publications/usa-rice-daily/article/usa-rice-daily/2024/02/05/house-w-m-chair-jason-smith-requests-updated-usitc-study-on-global-rice-trade-impacts>.

¹⁸ “Rice: Global Competitiveness of the U.S. Industry,” April 2015, accessible here: <https://www.usitc.gov/publications/332/pub4530.pdf>.

¹⁹ All data from “Rice Sector at a Glance,” US Department of Agriculture, accessible here: <https://www.ers.usda.gov/topics/crops/rice/rice-sector-at-a-glance/>.

domestic support limits, contributing to the large increase in exports.²⁰ India argues that, though the subsidies do exceed WTO domestic support limits, the subsidies are still consistent with WTO commitments because they are part of India's public stockholding program.^{21, 22} While US exporters are losing competitiveness in foreign markets, US rice imports have also tripled over the last 20 years. Jasmine rice from Thailand and basmati rice India are the largest classes of US rice imports.

House committee hearing on WTO priorities

Following the request to the ITC, the Ways and Means Committee's Trade Subcommittee held a hearing on February 7, 2024, to discuss US interests in the 13th WTO ministerial conference (MC13).²³ The purpose of the hearing was to pressure the Biden administration to take a stronger stance at MC13, including in: the agriculture negotiations; the second round of the fisheries subsidies negotiations; dispute settlement reform; the COVID-19 vaccine intellectual property protection waiver talks; and restoring the US negotiating position on cross-border data flows in the Joint Statement Initiative on e-Commerce. In discussing the WTO agriculture negotiations, the witnesses highlighted the importance of strengthening transparency in subsidy notifications and improving market access. The witnesses also advocated for resisting efforts led by India to permanently allow public stockholding programs.

Dennis Shea, a former US Ambassador to the WTO, reviewed US efforts to refocus agriculture negotiations on current trends in global agriculture markets and state subsidies, including the Trump administration's efforts to pressure countries into disclosing more information about subsidies programs and filing counter-notifications on India's market price support programs for rice and other food products. The Biden administration has similarly sought a "holistic approach,"²⁴ to combining WTO agriculture market access and domestic support negotiations, according to Mr. Shea, which points to bipartisan consensus on the issue. He called on the United States to continue seeking ambitious commitments to subsidies transparency and market access as part of the new agriculture work program negotiations that will likely emerge from MC13.²⁵

Bobby Hanks, who chairs the International Trade Policy Committee at the USA Rice Federation also spoke at the hearing. In his testimony, he argued that the international rice market is highly distorted by government interventions and blamed farm subsidies in major Asian economies for the US rice industry's loss of market share. In explaining the scale of the foreign subsidies that his industry faces, Mr. Hanks highlighted the usefulness of the ITC's 2015 rice

²⁰ "India's Rice Subsidies Under Fire at WTO by U.S., Thailand, and Others," April 6, 2023, accessible here: <https://www.usarice.com/news-and-events/publications/usa-rice-daily/article/usa-rice-daily/2023/04/06/india-s-rice-subsidies-under-fire-at-wto-by-u.s.-thailand-and-others>.

²¹ One of India's priorities for MC13 is to reach a permanent settlement that preserves its public stockholding program, which is currently protected under the interim Bali Ministerial Decision on Public Stockholding for Food Security Purposes. The program purchases crops from farmers at minimum support prices (which are higher than market prices) and then distributes the food to India's poor. India argues the system is crucial to ensuring food security, but most countries have transitioned away from this approach to food support. US farmers argue the Indian system distorts global food prices and displaces US exports when the government releases large volumes of stock into the market. More information on the Bali decision is accessible here: https://www.wto.org/english/tratop_e/agric_e/factsheet_agng_e.htm.

²² WTO domestic support notification, March 31, 2023, accessible here: <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/G/AG/NIND29.pdf&Open=True>.

²³ "Trade Subcommittee Hearing on Advancing America's Interests at the World Trade Organization's 13th Ministerial Meeting," February 7, 2024, hearing recording and witness testimony are accessible here: <https://waysandmeans.house.gov/event/trade-subcommittee-hearing-on-advancing-americas-interests-at-the-world-trade-organizations-13th-ministerial-meeting/>.

²⁴ "Summary of U.S. Mission to the WTO and Ambassador María L. Pagán's Engagement at the WTO during the week of January 29, 2024," February 2, 2024, accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2024/february/summary-us-mission-wto-and-ambassador-maria-l-pagans-engagement-wto-during-week-january-29-2024#:~:text=Ambassador%20Pag%C3%A1n%20emphasized%20the%20United%20States%E2%80%99%20support%20for%20agricultural%20domestic%20support%20and%20market%20access%20reform%20and%20the%20need%20for%20a%20holistic%20approach>.

²⁵ "Chair introduces draft text for agriculture negotiations in run-up to MC13," January 30, 2024, accessible here: https://www.wto.org/english/news_e/news24_e/agng_30jan24_e.htm.

market study. He thanked the Ways and Means Committee for requesting an update to the 2015 study and said the new study would “outline further impacts of over-subsidization by global rice exporters.”

The USA Rice Federation is part of “Aggies for WTO Reform,” a coalition of US farm groups seeking improved market access commitments for agricultural trade at the WTO. US farmers are concerned that the WTO is failing in its mission to promote free trade for their products and want to see the United States participate constructively to improve and strengthen WTO disciplines, not abandon the organization. The industry strongly opposes efforts to permit public stockholding programs in the WTO, and Mr. Hanks asserted in his testimony that the US industry would rather maintain the WTO’s status quo than allow India’s proposals to succeed.

The farm industry is also urging the Biden administration to file WTO disputes against India’s public stockholding programs and argues the United States must restore the dispute settlement reform for these kinds of disputes to succeed. Mr. Hanks reiterated the industry’s support for the Prioritizing Offensive Agricultural Disputes and Enforcement Act (Ag Disputes Act). The Ag Disputes Act, which was introduced to the House and Senate in September 2023, would direct the US Department of Agriculture to help USTR develop WTO dispute cases for agriculture market access challenges.²⁶

US Customs Expands the Global Business Identifier Reporting Test

On February 12, 2024, US CBP published an updated Federal Register Notice (FRN) that expands the National Customs Automation Program Test for the Global Business Identifier (GBI) Evaluative Proof of Concept (GBI test).²⁷ CBP first established the GBI test on December 2, 2022, gathering specific business identification codes from importers and studying if gathering such unique company identification data is useful.²⁸ The updated notice extends the test program for several more years, expands the products and countries eligible for the test, and makes various other clarifications to the program.

Overview of the GBI test

CBP is using the GBI test to decide whether adding a requirement for unique company identifiers to customs entry filings would be useful for rules compliance and entry clearance efficiency. Importers that volunteer to participate in the test file business identification codes in the ACE with CBP Form 3461 (Entry/Immediate Delivery) filings. Importers participating in the test can submit one or more of GS1’s Global Location Number (GLN), Dun & Bradstreet’s Data Universal Numbering System (DUNS), or the Global Legal Entity Identifier Foundation’s Legal Entity Identifier (LEI) codes. CBP is then collecting this data, examining how to verify the submitted information, and exploring how these three types of codes can contribute to improving customs processes. Among the options under consideration is using the GBIs to replace the manufacturer and shipper identification codes (MID). CBP has come to view the MIDs as unreliable, concerned about inconsistent and overlapping MIDs and their lack of accompanying information about the related companies.

²⁶ S.2992 - Ag Disputes Act, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/senate-bill/2992>; and H.R.5790 - Prioritizing Offensive Agricultural Disputes and Enforcement Act, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/5790>.

²⁷ “Extension and Modification of the National Customs Automation Program Test Concerning the Submission Through the Automated Commercial Environment of Certain Unique Entity Identifiers for the Global Business Identifier Evaluative Proof of Concept,” 89 FR 9859 (January 12, 2024), accessible here: <https://www.federalregister.gov/documents/2024/02/12/2024-02788/extension-and-modification-of-the-national-customs-automation-program-test-concerning-the-submission>. CBP’s accompanying announcement is accessible here: https://content.govdelivery.com/bulletins/gd/USDHSCBP-38a4fd3?wgt_ref=USDHSCBP_WIDGET_2.

²⁸ “Announcement of the National Customs Automation Program Test Concerning the Submission Through the Automated Commercial Environment of Certain Unique Entity Identifiers for the Global Business Identifier Evaluative Proof of Concept,” 87 FR 74157 (December 2, 2022), accessible here: <https://www.federalregister.gov/documents/2022/12/02/2022-26213/announcement-of-the-national-customs-automation-program-test-concerning-the-submission-through-the>.

CBP argues that for importers, the GBI test could streamline entry of lawful goods, improve management of entry requirements between different government agencies, and help secure supply chains. If CBP does decide to formally adopt GBI disclosure as part of the mandatory entry process, participating in the test would give importers a chance to provide feedback and prepare for the change. Importers of record and customs brokers interested in participating in the test can contact CBP for more information on the program.²⁹

Expanding the GBI test

The February 12 FRN was the second major update to the GBI test. The previous update was published on July 21, 2023 and is now superseded by the February 12 update.³⁰ According to CBP, the agency is continuing to assess the effectiveness of the GBI codes for fixing existing data gaps and is also now examining how the codes could help the government address newly emerging supply chain traceability requirements. The key changes in the FRN are summarized below:

- **Extending the test period:** The February 12 FRN extends the duration of the test significantly, moving its expiration date from February 14, 2024 to February 23, 2027. CBP originally planned for the test to last only seven months, from December 2022 to July 2023.
- **Expanding coverage:** The update removes the commodity and country of origin limitations for eligibility, opening the test program to a broader set of traders and expanding what kinds of trade CBP can evaluate in the test. Originally, only alcohol, toys, seafood, personal items, and medical devices imported from Australia, Canada, China, France, Italy, Mexico, New Zealand, Singapore, the United Kingdom, and Vietnam qualified for the test. Now, all shipments from all countries of origin that enter the United States through entry type 01 (formal consumption entries) or entry type 11 (informal entries) will qualify for the test.
- **Clarifying scope and purpose:** The updates make various clarifications to the explanation of the GBI test and add to the evaluation criteria that the GBI test is specifically considering “utilizing GBIs to address data gaps caused by the unreliability of the MID, in addition to exploring opportunities to enhance supply chain traceability and visibility more broadly—including examining how CBP, PGAs [partner government agencies], and the trade industry might leverage GBIs to comply with growing supply chain traceability requirements.” The update also transfers administration of the GBI test from the CBP Office of Trade’s Interagency Collaboration Division to the Trade Modernization Division.

US Congress Considering New Legislation Targeting Xinjiang

As attention on forced labor and other human rights abuses in China's Xinjiang Uyghur Autonomous Region (XUAR) continues in Washington, Congress is considering a variety of new legislative options that would increase economic and diplomatic scrutiny on the region. The House of Representatives passed two of these bills in February 2024, the Uyghur Policy Act of 2023 and the No Dollars to Uyghur Forced Labor Act, which now await Senate action. The Senate has also passed one bill, the Combating Human Rights Abuses Act of 2023, which awaits attention in the House. While Congress considers these bills, legislators are also continuing to pressure the Biden administration to tighten enforcement of the UFLPA.³¹

²⁹ Information about enrolling in the program is accessible here: <https://www.cbp.gov/trade/programs-administration/gbi>.

³⁰ “Extension and Modification of the National Customs Automation Program Test Concerning the Submission Through the Automated Commercial Environment of Certain Unique Entity Identifiers for the Global Business Identifier Evaluative Proof of Concept,” 88 FR 47154 (July 21, 2023), accessible here: <https://www.federalregister.gov/documents/2023/07/21/2023-15497/extension-and-modification-of-the-national-customs-automation-program-test-concerning-the-submission>.

³¹ For example, on January 22, 2024, the House Select Committee on the CCP sent a letter to the Department of Homeland Security calling for stronger enforcement and significant expansions of the Entity List, accessible here: <https://selectcommitteeontheccp.house.gov/media/letters/letter-secretary-mayorkas-enforcement-uyghur-forced-labor-prevention-act>.

No Dollars to Uyghur Forced Labor Act

The No Dollars to Uyghur Forced Labor Act would prohibit certain US overseas development assistance programs from supporting projects that use inputs from XUAR, essentially expanding restrictions like those in the UFLPA to cover foreign aid.³² The House approved the bill by voice vote on February 13, 2024 and it is awaiting action in the Senate.

The bill would specifically ban any funds from the State Department or the United States Agency for International Development (USAID) from being used to “develop, design, plan, promulgate, implement, or execute a policy, program, or contract that knowingly uses goods, wares, articles, or merchandise mined, produced, or manufactured wholly or in part” in XUAR or by an entity on the UFLPA Entity List.³³ If an aid project is tied to XUAR or a listed entity, the relevant program implementor would have to eliminate supply chain connections to XUAR and implement new compliance systems, which the State Department would have to review and report to Congress.

Combating Human Rights Abuses Act of 2023

The Combating Human Rights Abuses Act of 2023 would instruct the Commerce Department to produce guidance for US business and investors about human rights abuses in XUAR. The bill passed the Senate by unanimous consent on December 19, 2023 and awaits further action in the House.³⁴

The Commerce Department guidance would include information that businesses can use to identify and avoid doing business with entities that may be linked to human rights abuses, and descriptions of the legal risks that may stem from doing business with such entities. The Commerce Department would offer this guidance in both general advisories and in any appropriate counseling services that the department provides to businesses. Most Commerce Department business counselling services are intended to promote US exports, so this new advice would likely focus on discouraging US businesses from producing and exporting goods in partnership with Chinese businesses. Importantly, this form of export assistance guidance would not have any direct legal implications for businesses.

Uyghur Policy Act of 2023

The Uyghur Policy Act of 2023 would direct the United States to adopt a more aggressive diplomatic strategy on human rights issues related to XUAR. The bill’s provisions include:

- appointing a Special Coordinator for Uyghur Issues at the State Department to manage XUAR-related policy,
- directing the State Department’s Bureau of Educational and Cultural Affairs to support Uyghur human rights advocates,
- developing a diplomatic strategy to pressure China to close detention camps in XUAR,
- ensuring US diplomatic posts in China have staff who speak the Uyghur language, and
- promoting Uyghur interests at the United Nations.

³² H.R.4039 - No Dollars to Uyghur Forced Labor, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/4039>.

³³ UFLPA Entity List, accessible here: <https://www.dhs.gov/uflpa-entity-list>.

³⁴ S.484 - Combating Human Rights Abuses Act of 2023, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/senate-bill/484>.

The House passed the bill on February 15, 2024, by a vote of 414 to 6.³⁵ A similar bill in the Senate awaits action in the Committee on Foreign Relations.³⁶ The Senate version does not include the section from the House bill directing the State Department to support Uyghur rights activists, nor does the Senate version order the appointment of a Special Coordinator to lead the diplomatic strategy. Should the bill advance further, members of both chambers will have to reconcile these differences before it can become law.

Other recently proposed legislation

- The **No Forced Labor on TV Act** was introduced to the House on February 15, 2024 by Rep. John Curtis (R-UT).³⁷ The bill would define the advertising of products made by forced labor in China as a deceptive business practice under the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)), creating a substantial new liability for companies selling products in the United States. The bill has no co-sponsors, nor is there a Senate version. Rep. Curtis has said that he introduced the bill in response to a recent large advertising campaign by the e-commerce company Temu.
- The **No Funds for Forced Labor Act** was introduced to the House on January 29, 2024 by a bipartisan group of representatives.³⁸ The bill amends the International Financial Institutions Act³⁹ to instruct the Treasury Department’s representatives to international financial institutions to (i) oppose any loan that is associated with a project tied to forced labor risks or with entities from XUAR and (ii) seek reports for every project financed about how the projects are mitigating forced labor risks.
- The **Uyghur Forced Labor Disclosure Act** was introduced to the House on July 24, 2023 with most of its support coming from Democrats.⁴⁰ The bill would build on the UFLPA prohibition on imports from Xinjiang by requiring publicly traded companies to file reports documenting if their supply chains include any goods that originate in XUAR, along with third-party audits verifying the reports. The disclosure rules would apply to all global operations of companies listed on US stock exchanges, rather than just goods imported into the United States. Republicans introduced a similar bill in the Senate, the **Transaction and Sourcing Knowledge (“TASK”) Act**, on March 16, 2023.⁴¹ Both bills were also introduced in the 2021-2022 legislative session, but never moved out of committee.
- The **Strengthening the Uyghur Forced Labor Prevention Act** was introduced to the House on July 11, 2023 by the Democrats.⁴² The bill would expand the UFLPA’s import prohibition and the Entity List to cover additional

³⁵ H.R.2766 - Uyghur Policy Act of 2023, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/2766>.

³⁶ S.1252 - Uyghur Policy Act of 2023, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/senate-bill/1252>.

³⁷ H.R.7364 – No Forced Labor on TV Act, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/7364>. Draft text accessible here: <https://curtis.house.gov/uploadedfiles/temu.pdf>.

³⁸ H.R.7125 - No Funds for Forced Labor Act, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/7125>.

³⁹ Title VII of the International Financial Institutions Act (22 U.S.C. 262d), accessible here: [https://uscode.house.gov/view.xhtml?req=\(title:22%20section:262d%20edition:prelim\)](https://uscode.house.gov/view.xhtml?req=(title:22%20section:262d%20edition:prelim)), covers the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the African Development Fund, the Asian Development Bank, the African Development Bank, the European Bank for Reconstruction and Development, and the International Monetary Fund.

⁴⁰ H.R.4840 - Uyghur Forced Labor Disclosure Act, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/4840>.

⁴¹ S.864 - TASK Act, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/senate-bill/864>.

⁴² H.R.4567 - Strengthening the Uyghur Forced Labor Prevention Act, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/4567>.

types of state-sponsored labor programs. The bill would also require CBP to include more detailed information in its reports to Congress on UFLPA enforcement.

- The **Uyghur Human Rights Protection Act** was introduced to the House on June 7, 2023 by a bipartisan group of representatives.⁴³ The bill would designate certain residents of XUAR as prioritized refugees of special humanitarian concern, making it easier for them to access the US refugee program and enter the United States.
- The **Uyghur Human Rights Sanctions Review Act** was introduced the House and Senate in March 2023, with most of its support coming from Republicans.⁴⁴ The bill would require the executive branch to consider certain Chinese companies for placement on the Specially Designated Nationals and Blocked Persons List (SDN List) for alleged connections to human rights abuses in XUAR and violations of various US sanctions laws.

Situation in Congress

Passing any legislation in a divided Congress just before elections is challenging, but actions targeting forced labor (especially in XUAR) have typically enjoyed broad bipartisan support. If the bills cannot succeed on their own, another option is to bundle them together into a larger legislative package that can appeal to more members of Congress. Representatives involved with the House Select Committee on the Chinese Communist Party are leading an effort to negotiate a package of China-related trade and investment restrictions, which may lead to a legislative proposal in the next few months. The package would be based on the menu of options assembled in the Select Committee's December 2023 report and could include some of the bills described in the alert.⁴⁵ Whether a China-focused legislative package could succeed amid continued partisan acrimony remains to be seen. If such a bill fails, supporters of new action on Xinjiang could seek to attach the measures to the 2025 National Defense Authorization Act (which Congress must pass by late 2024) or to a potential trade policy legislative package (which Congress is also trying to negotiate in the next few months).

⁴³ H.R.3934 - Uyghur Human Rights Protection Act, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/3934>.

⁴⁴ H.R.1324 - Uyghur Human Rights Sanctions Review Act, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/1324>; and S.585 - Uyghur Human Rights Sanctions Review Act, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/senate-bill/585>.

⁴⁵ "Select Committee Adopts Proposal to Reset Economic Relationship with The People's Republic of China," December 12, 2023, accessible here: <https://selectcommitteeontheccp.house.gov/media/press-releases/select-committee-adopts-proposal-reset-economic-relationship-peoples-republic>.

Trade Actions

No developments

Trade Agreements

United States and Kenya Meet for Third Trade Partnership Negotiating Round

The United States and Kenya held the third negotiating round of the Strategic Trade and Investment Partnership (STIP) in Nairobi, Kenya from January 29-31, 2024.⁴⁶ These latest negotiations primarily focused on the agriculture, good regulatory practices, and workers' rights text proposals. The meetings focused on discussing the newly proposed texts covering agriculture, good regulatory practices, and workers' rights. The negotiators also discussed aspects of the anticorruption; micro-, small-, and medium-sized enterprises (MSMEs); and services domestic regulation proposals.

Representatives from the US Department of State, the US Department of Agriculture, and the Food and Drug Administration joined the meetings alongside USTR, with the delegation led by Assistant USTR Constance Hamilton. Trade Principal Secretary Alfred K'Ombudo led the Kenyan delegation.

Previous STIP negotiating rounds

The parties held the STIP's first detailed negotiating round from April 17-20, 2023 in Nairobi. The first round discussed the proposed texts for the chapters on agriculture, anticorruption, MSMEs, and services domestic regulation. This followed conceptual discussions from February 6-10, 2023, where work on the agreement began.

The second negotiating round took place in Washington, DC from October 4-7, 2023, where the parties discussed the agriculture, anti-corruption, and services domestic regulation chapters, as well as conceptual discussions about inclusivity in trade. According to USTR, since the second round, the parties "have continued to make progress in deepening mutual understanding and resolving differences."

Proposed content of the STIP

The STIP will not be a traditional free trade agreement (FTA). As in the Indo-Pacific Economic Framework for Prosperity (IPEF) and the US-Taiwan Initiative on 21st-Century Trade Agreement negotiations, USTR is avoiding discussing binding market access commitments or tariff cuts. The negotiations are focused instead on developing partnerships for promoting sustainable economic development, including improving regulatory practices, supporting African regional integration, and promoting economic inclusion for women and MSMEs. USTR has proposed that the STIP should at first focus on (1) agriculture, (2) anticorruption, (3) digital trade, (4) environment and climate action, (5) good regulatory practices, (6) MSMEs, (7) protecting worker's rights and protections, (8) supporting the participation of women, youth, and others in trade, (9) standards collaboration, (10) trade facilitation and customs procedures, and (11) services domestic regulation.

The Biden administration is calling the STIP a model of engagement with other African countries. It is, however, less ambitious than a full FTA and will not provide the same benefits to traders and investors. Kenya, for its part, believes it can leverage the STIP to eventually negotiate a full bilateral FTA. The Biden administration has not committed to

⁴⁶ "Readout of January 29-31 Negotiating Round Under the U.S.-Kenya Strategic Trade and Investment Partnership," February 6, 2024, accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2024/february/readout-january-29-31-negotiating-round-under-us-kenya-strategic-trade-and-investment-partnership>.

moving on to an FTA, but the Trump administration's previous efforts to negotiate a bilateral FTA and support for the proposal by some members of Congress suggest an opportunity may eventually emerge.

In May 2023, USTR published summaries of what it had proposed for the agriculture, anticorruption, MSMEs, and services domestic regulation chapters:⁴⁷

- **Agriculture:** USTR describes its agriculture trade proposals as expanding market access and advancing food security. These provisions include commitments to regulatory transparency and cooperation, science-based decision making in health regulations, clear rules on food export restrictions, and trade facilitation. This is only part of the agriculture chapter, with USTR planning to propose more provisions later. Like other trade agreements USTR is pursuing, USTR would probably not seek tariff cuts or disciplines on sanitary and phytosanitary measures that go beyond existing WTO commitments.
- **Anticorruption:** The anticorruption chapter proposal seeks to prevent and combat bribery and other forms of corruption as well as address the treatment of corrupt public officials. The chapter includes efforts to ban corruption and money laundering, enhance whistle blower protection, and promote government and corporate transparency. The chapter also includes a commitment that obligates governments to adopt legislation that could deny entry to corrupt public officials from third countries, a provision that the United States began adding to its proposed trade agreements in recent years.
- **MSMEs:** The MSME chapter proposal contains commitments in support of trade and investment among MSMEs, including through training and education programs, digital trade promotion, and improvements to MSME access to credit. It would also establish an ongoing US-Kenya MSME dialogue to promote trade.
- **Services Domestic Regulation:** The services domestic regulation chapter proposed by USTR is meant to ensure fair and transparent treatment of foreign services suppliers applying for business licenses. The text builds upon the World Trade Organization's Joint Initiative on Services Domestic Regulation, a plurilateral agreement signed in December 2021.⁴⁸ Though past trade agreements have included commitments on services market access, this chapter's approach is a new addition to USTR's model trade agreement. It first appeared in the US-Taiwan Initiative on 21st-Century Trade Agreement, signed on June 1, 2023.⁴⁹ Whereas in the WTO Declaration, Members commit to opening only specifically listed sectors, the proposed USTR chapter would cover almost all sectors by default.

Details on when the next negotiating round will take place are not yet available. Kenya had sought a quick negotiating schedule for the STIP, hoping to complete the text by the end of 2023. USTR, however, has never commented on a timeline and Kenya's 2023 target has now passed.

USTR Highlights Successful Operation of USMCA Bilateral Labor Mechanism

On February 9, 2024, the Office of the United States Trade Representative (USTR) published a fact sheet highlighting the successful operation of the Rapid Response Mechanism (RRM) under the United States-Mexico-Canada Agreement (USMCA).⁵⁰ Since its entry into force in July 2020, the United States has launched 19 petitions to

⁴⁷ "U.S.-Kenya Strategic Trade and Investment Partnership Summary of Texts Proposed by the U.S. Side," May 2023, accessible here: [https://ustr.gov/sites/default/files/2023-05/U.S.-Kenya STIP Chapter Summaries May 2023.pdf](https://ustr.gov/sites/default/files/2023-05/U.S.-Kenya%20STIP%20Chapter%20Summaries%20May%202023.pdf).

⁴⁸ More information on the WTO's Services Domestic Regulation work is accessible here: https://www.wto.org/english/tratop_e/serv_e/jsdomreg_e.htm.

⁴⁹ "Agreement Between The American Institute In Taiwan And The Taipei Economic And Cultural Representative Office In The United States Regarding Trade Between The United States Of America And Taiwan," accessible here: [https://ustr.gov/sites/default/files/US-Taiwan Initiative on 21st Century Trade First Agreement - June 2023.pdf](https://ustr.gov/sites/default/files/US-Taiwan%20Initiative%20on%2021st%20Century%20Trade%20First%20Agreement%20-%20June%202023.pdf).

⁵⁰ USTR's Fact Sheet is accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2024/february/fact-sheet-usmca-rapid-response-mechanism-delivers-workers>.

the Mexican government to conduct reviews of alleged denials of labor rights under the bilateral RRM between the United States and Mexico. The disputes concern denials of workers' rights to select a trade union of their choice (free association) and to negotiate a collective bargaining agreement with their employer company. The RRM became increasingly active in 2023 with a high rate of successful resolution.

Key highlights of the RRM's operations

- All labor disputes under the bilateral RRM have been brought so far by the United States against Mexico: 2 in 2021, 4 in 2022, 12 in 2023, and 1 in January 2024.
- The alleged denials of rights were brought to the attention of USTR directly by Mexican trade unions, in some cases with the support of US trade unions or the International Lawyers Assisting Workers Network (ILAW Network).
- All but one of the disputes were formally initiated (*i.e.*, a petition filed by the US government and accepted by the Mexican government). In one case, the US government did not have to make a formal request as the matter was resolved during preliminary consultations between the two governments.
- Twelve disputes have been resolved, six disputes are still active, and one dispute was *de facto* terminated as the company under investigation closed the facility and ended its operations in Mexico.⁵¹
- In six disputes, the two governments agreed on a course of action to remedy denials of rights; in one dispute, the US government agreed directly with the company on an action plan. Five remedial action plans led to the successful resolution of the disputes; one is still under review by the two governments, while one other failed, which led to the closure of the facility.
- Only one dispute has reached the panel stage due to US dissatisfaction with a determination by the Mexican government that there had been no denial of rights. Procedures before a three-person panel chaired by a Canadian national are currently ongoing. In two other cases the Mexican government found no denial of rights, but the investigated companies implemented actions to improve labor rights at their facilities.
- Fifteen disputes concerned denials of rights in manufacturing facilities in the automotive sector; the remaining four disputes involved a lead, zinc, and copper mine (this is the case that has reached the panel stage), a garment facility, and two service provider companies (one air cargo and one call center).
- In most goods cases, USTR directed the Secretary of the Treasury to suspend liquidation of entries of goods from the facility that was being investigated until such time as USTR notified the Secretary that the denial of rights had been remedied.
- Finally, most disputes have been resolved or handled expeditiously, which confirms a great deal of cooperation between the two governments. Ten disputes were successfully resolved in two months, one in a year, and another in nine months. Six active disputes have been initiated in the last eight months, including the one subject to an arbitration panel.

USMCA Annex 31-A procedure

⁵¹ In this particular dispute, the matter was successfully resolved at a first stage, but the United States brought a second complaint a few months later as the denial of rights persisted.

USMCA Annex 31-A⁵² provides for an expedited dispute settlement procedure to enforce labor rights at a “covered facility”⁵³ under domestic laws. As defined in USMCA Article 31-A.2, a “denial of rights” occurs when workers are being denied the rights of free association and collective bargaining under laws necessary to fulfill a Party’s obligations under the USMCA. A basic description of the RRM is as follows:⁵⁴

- Under the RRM, the first step is for a complainant Party, which has a good faith basis to believe that a denial of rights is occurring at a covered facility, to submit a request that the respondent Party conduct its own review of whether such situation exists. If the respondent Party determines that there is a denial of rights, it shall attempt to remedy any issues it finds within 45 days of the request.
- The complainant Party may request the establishment of a Rapid Response Labor Panel to conduct a separate verification and determination if (i) the respondent Party does not choose to conduct a review or (ii) if, having accepted to do so, the Parties are not able to agree that the issue has been resolved.
- Any non-compliance with key labor obligations can lead to the suspension of USMCA tariff benefits, or the imposition of other penalties, such as the denial of entry of goods from businesses that are repeat offenders.

Active disputes

#	RRM Dispute	Sector	Initiation	Status
9	Draxton México, S. de R.L. de C.V facility Irapuato, Guanajuato	Auto parts	May 31, 2023 (*)	On July 28, 2023, the two governments agreed on a course of remedial action , which had to be completed by October 31, 2023. ⁵⁵ The case is currently under review by the two governments.
11	Grupo Mexico San Martin Mine Sombrerete, Zacatecas	Lead, zinc, and copper mine	June 16, 2023 (*)	The Mexican government found no denial of rights. The US government disagreed with this determination and requested the establishment of an RRM panel to review the situation. The panel was established on August 30, 2023. ⁵⁶
14	Teklas Automotive Facility Aguascalientes	Auto parts	September 25, 2023 (*)	On December 8, 2023, the Mexican government announced that it was holding discussions with the US government to establish a fair remedial action plan for the workers, according to Mexican law. ⁵⁷ The case is currently under review by the two governments.

⁵² USTR’s dedicated website on Chapter 31 Annex A is accessible here: <https://ustr.gov/issue-areas/enforcement/dispute-settlement-proceedings/fta-dispute-settlement/usmca/chapter-31-annex-facility-specific-rapid-response-labor-mechanism>.

⁵³ A “covered facility” means a facility in the territory of a Party that (i) produces a good or supplies a service traded between the parties; or (ii) produces a good or supplies a service that competes in the territory of a Party with a good or a service of the other Party; and is a facility in a “priority sector” (i.e., that produces manufactured goods, supplies services, or involves mining).

⁵⁴ Chapter 31 Annex A to USMCA Chapter 31 (Mexico and United States) is accessible here: <https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/31%20Dispute%20Settlement.pdf>. Chapter 31 Annex B sets out the rules for the RRM between Mexico and Canada.

⁵⁵ USTR’s press release is accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/july/united-states-and-mexico-announce-plan-remediate-denials-rights-draxton-facility>.

⁵⁶ The USMCA Secretariat’s notice is accessible here: <https://ustr.gov/sites/default/files/enforcement/USMCA/chapter-31-annex-a/2%20-%20Panel%20Confirmation%20of%20Petition%20-%20September%207%2C%202023.pdf>.

⁵⁷ The Mexican government’s press release is accessible here (in Spanish): <https://www.gob.mx/se/prensa/mexico-y-estados-unidos-avanzan-de-manera-conjunta-en-el-caso-de-teklas-en-el-mlrr-del-t-mec-353545?idiom=es>.

#	RRM Dispute	Sector	Initiation	Status
15	Asiaway Automotive Components Mexico facility San Luis Potosi	Automotive components	October 23, 2023 (*)	On December 8, 2023, the Mexican government confirmed denials of rights. The company undertook remedial actions. The case is currently under review by the two governments. ⁵⁸
18	Fujikura Automotive Mexico facility Piedras Negras, Coahuila	Automotive components	December 14, 2023 (*)	On January 31, 2024, the Mexican government announced that it found no denial of rights at the facility. However, the company took several actions to improve labor rights at the facility. The case is currently under review by the two governments. ⁵⁹
19	Atento Servicios, S.A. de C.V. facilities Pachuca, Hidalgo	Call center services to a bank	January 19, 2024	On January 30, 2024, the Mexican government announced that it had agreed to review the case. ⁶⁰

Disputes successfully resolved

#	RRM Dispute	Sector	Initiation	Resolution
1	General Motors de Mexico S. de R.L. de C.V. facility Silao, Guanajuato	Cars	May 12, 2021 (*)	On July 8, 2021, the two governments agreed on a course of remedial action. On May 27, 2022, the US government announced the successful resolution of the dispute. ⁶¹ USTR directed the resumption of liquidation of entries of goods from the facility.
2	Tridonex S. de R.L. de C.V. facility Matamoros, Tamaulipas	Auto parts	June 9, 2021	On August 10, 2021, the Mexican government announced that it had found no denial of labor rights. On the same date, the US government announced it had reached an agreement directly with the company on an action plan to improve labor rights. ⁶² In this case, there was no suspension of liquidation of entries.
3	Panasonic Automotive Systems de Mexico, S.A. de C.V. facility Reynosa, Tamaulipas	Auto parts	May 18, 2022 (*)	On July 14, 2022, the two governments announced the resolution of the dispute. ⁶³ USTR directed the resumption of liquidation of entries of goods from the facility.
4	Teskid Hierro de Mexico, S.A. de C.V. facility Frontera, Coahuila	Auto parts	June 6, 2022 (*)	On August 2, 2022, the two governments agreed on a course of remedial action.

⁵⁸ The Mexican government's press release is accessible here (in Spanish): <https://www.gob.mx/se/prensa/mexico-concluye-exitosamente-la-investigacion-interna-de-la-solicitud-de-revision-en-asiaway-conforme-al-miirr-del-t-mec-353542?idiom=es>.

⁵⁹ The Mexican government's press release is accessible here (in Spanish): <https://www.gob.mx/se/prensa/mexico-concluye-la-investigacion-interna-de-la-solicitud-de-revision-en-fujikura-automotive-mexico-conforme-al-mecanismo-laboral-de-respuesta-rapida-del-t-mec>.

⁶⁰ The Mexican government's press release is accessible (in Spanish): <https://www.gob.mx/se/prensa/mexico-admite-solicitud-de-revision-presentada-por-estados-unidos-al-amparo-del-mecanismo-laboral-de-356619>.

⁶¹ USTR's press release is accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2022/may/statement-ambassador-katherine-tai-recent-vote-workers-general-motors-facility-silao-mexico>.

⁶² USTR's press release is accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2021/august/united-states-reaches-agreement-mexican-auto-parts-company-protect-workers-rights>.

⁶³ USTR's press release is accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2022/july/united-states-announces-successful-resolution-rapid-response-labor-mechanism-matter-panasonic-auto>.

#	RRM Dispute	Sector	Initiation	Resolution
				On August 16, 2022, the two governments announced the resolution of the dispute. ⁶⁴ USTR directed the resumption of liquidation of entries of goods from the facility.
6	Saint Gobain Mexico S.A. de C.V. Cautla, Morelos	Automotive glass	September 27, 2022	On October 27, 2022, the two governments announced the resolution of the dispute without any need for further action. ⁶⁵ In this case, there was no suspension of liquidation of entries.
7	Unique Fabricating de Mexico, S.A. Santiago de Querétaro, Querétaro	Automotive components	March 6, 2023 (*)	On April 24, 2023, the two governments announced the resolution of the dispute. USTR directed the resumption of liquidation of entries of goods from the facility. ⁶⁶
8	Goodyear-SLP, S. de R.L. de C.V. (Goodyear-SLP) facility San Luis Potosí, San Luis Potosí	Car tires	May 22, 2023 (*)	On July 19, 2023, the two governments agreed on a course of remedial action. On February 5 and 6, 2024, the two governments announced the successful resolution of the dispute. ⁶⁷ USTR directed the resumption of liquidation of entries of goods from the facility.
10	Industrias del Interior (INISA) facility Rincón de Romos, Aguascalientes	Garments	June 12, 2023 (*)	On August 9, 2023, the two governments agreed on a course of remedial action, which had to be completed by November 10, 2023. On December 11, 2023, the US government announced the successful resolution of the dispute but has not yet directed the resumption of liquidation of entries of goods from the facility until now. ⁶⁸
12	Grupo Yazaki facility León, Guanajuato	Auto components	August 7, 2023 (*)	On October 4, 2023, the two governments announced the successful resolution of the dispute. ⁶⁹ USTR directed the resumption of liquidation of entries of goods from the facility.
13	Aerotransportes Mas de Carga (Mas Air) Mexico City	Air cargo services	August 30, 2023	On October 18, 2023, the Mexican government announced the successful conclusion of the investigation and the remedial action taken by the company. On October 26, 2023, the United States announced that it would not be taking any further action on this matter at this time. ⁷⁰

⁶⁴ USTR's press release is accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2022/august/united-states-announces-successful-resolution-rapid-response-labor-mechanism-matter-auto-parts>.

⁶⁵ USTR's press release is accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2022/october/united-states-announces-successful-resolution-rapid-response-mechanism-petition-regarding-saint>.

⁶⁶ USTR's press release is accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/april/united-states-announces-successful-resolution-rapid-response-mechanism-petition-regarding-unique>.

⁶⁷ USTR's press release is accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2024/february/united-states-announces-successful-resolution-rapid-response-labor-mechanism-matter-goodyear-slp>.

⁶⁸ USTR's press release is accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/december/united-states-announces-successful-resolution-rapid-response-labor-mechanism-matter-mexican-garment>.

⁶⁹ USTR's press release is accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/october/united-states-announces-successful-resolution-rapid-response-mechanism-labor-matter-grupo-yazaki>.

⁷⁰ USTR's press release is accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/october/united-states-announces-successful-resolution-rapid-response-mechanism-labor-matter-mexican-airline>.

#	RRM Dispute	Sector	Initiation	Resolution
16	Tecnología Modificada S.A. de C.V. Caterpillar facility Nuevo Laredo	Remanufactured automotive parts	October 26, 2023 (*)	On October 18, 2023, the Mexican government announced the successful conclusion of the investigation and the remedial action taken by the company. On December 22, 2023, the US government announced the successful resolution of the dispute. ⁷¹ USTR directed the resumption of liquidation of entries of goods from the facility.
17	Autoliv Steering Wheels facility El Marqués, Querétaro	Automotive wheels	November 20, 2023 (*)	On January 5, 2024, the Mexican government announced the successful conclusion of the investigation and the remedial action taken by the company. On January 22, 2024, the US government announced the successful resolution of the dispute. ⁷² USTR directed the resumption of liquidation of entries of goods from the facility.

Note (*): Suspension of liquidation of entries of goods from the facility until the procedure is complete.

Unresolved dispute but declared terminated

#	RRM Dispute	Sector	Initiation	Status
5	Manufacturas VU (I and II) Piedras Negras, Coahuila	Automotive components	July 21, 2022 (I) (*) January 30, 2023 (II) (*)	On September 14, 2022, the two governments announced the resolution of the dispute. USTR directed the resumption of liquidation of entries of goods from the facility. After the second request, the two countries agreed on March 31, 2023, on a six-month course of remedial action. USTR directed the suspension of entries of goods from the facility. On October 10, 2023, USTR announced that the company had closed the facility and ended operations in Mexico instead of implementing the course of remedial action. ⁷³

Note (*): Suspension of liquidation of entries of goods from the facility until the procedure is complete.

Senior Trade Officials Advance Trade Agenda under Americas Partnership for Economic Prosperity (APEP)

Senior trade officials of participant countries of the Americas Partnership for Economic Prosperity (APEP) met in the Dominican Republic’s capital of Santo Domingo from February 12 to 13, 2024 to advance the initiative’s trade agenda. During the meeting, participant countries focused on the Trade Track, which aims to enhance regional integration based on existing trade links and economic cooperation among participants.⁷⁴

⁷¹ USTR’s press release is accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/december/united-states-announces-successful-resolution-rapid-response-labor-mechanism-matter-tecnologia-0>.

⁷² USTR’s press release is accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2024/january/united-states-announces-successful-resolution-rapid-response-mechanism-labor-matter-autoliv-steering>.

⁷³ USTR’s press release is accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/october/united-states-statement-remediation-plan-manufacturas-vu-facility>.

⁷⁴ The Chilean government’s press release is accessible here (in Spanish): <https://www.subrei.gob.cl/sala-de-prensa/noticias/detalle-noticias/2024/02/19/el-12-y-13-de-febrero-sesion%C3%B3-el-primer-senior-officials-meeting-del-consejo-de-comercio-y-competitividad-del-acuerdo-de-las-am%C3%A9ricas-por-la-arosperidad-econ%C3%B3mica>; and USTR’s press release is accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2024/february/readout-americas-partnership-council-trade-and-competitiveness-meeting>.

According to press releases issued by the Chilean and US governments,⁷⁵ participant countries established the Council on Trade and Competitiveness (CTC) and three committees under its purview to address three priority issues: (i) Trade Rules and Transparency (CTRT); (ii) Trade and Sustainable Value and Supply Chains; and (iii) Inclusive Trade and SMEs. The CTC intends to meet in person at least twice annually.

The CTC considered proposals for a work plan under the CTRT, which focuses on activities to implement and build upon the WTO Trade Facilitation Agreement (TFA), as well as activities concerning the digitalization of import documents. Participants agreed that Chile and the United States would coordinate this work plan. They also shared views on optimizing inclusive outreach in the region in areas such as gender and small- and medium-sized enterprises.

Reports have not mentioned any progress on the trade and sustainable value and supply chain agenda. According to the Leaders' East Room Declaration³ issued after the first leaders' summit in November 2023, participant countries will aim to build resilient supply chains for goods and services, taking advantage of their respective complementarities on three initial priority sectors: (i) clean energy, (ii) medical supplies, and (iii) semiconductors.

Background

APEP is a US-led initiative launched in June 2022 during the Summit of the Americas in Los Angeles. The initiative represents an attempt by the Biden administration to regain some leadership in the Western Hemisphere after years of US disengagement in Latin America. The agreement was originally presented as an economic cooperation framework resembling Indo-Pacific Economic Framework for Prosperity (IPEF).

APEP comprises 12 participant countries: the United States, Barbados, Canada, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, Mexico, Panama, Peru, and Uruguay. APEP's stated aims are to chart a path forward to tackle economic inequality, foster regional economic integration, create good jobs, and restore faith in democracy by delivering for working people across the region. In November 2023, APEP leaders identified in the East Room Declaration cross-cutting priorities for hemispheric cooperation under three tracks: the Trade Track, the Foreign Affairs Track, and the Finance Track. The ministers will meet every year to ensure progress along each of the three tracks, while the leaders will reconvene every two years to update the collective priorities.

Costa Rica will host the next APEP leaders' summit in March or April 2025.

IPEF Supply Chain Agreement Enters into Force

The Indo-Pacific Economic Framework for Prosperity (IPEF) Agreement Relating to Supply Chain Resilience ("Supply Chain Agreement") entered force on February 24, 2024. The entry into force triggered when five of the parties (Fiji, India, Japan, Singapore, and the United States) deposited instruments of acceptance. Marking the agreement's entry into force, US Secretary of Commerce Gina Raimondo said, "we will now move forward and work collaboratively through this innovative framework with the goal of strengthening our supply chains and preventing potential disruptions before they arise for the collective benefit of our countries' workers and businesses."⁷⁶

Next steps for the Supply Chain Agreement

⁷⁵ 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/>.

⁷⁶ "U.S. Department of Commerce Announces Upcoming Entry into Force of the IPEF Supply Chain Agreement," accessible here: <https://www.commerce.gov/news/press-releases/2024/01/us-department-commerce-announces-upcoming-entry-force-ipef-supply-chain>.

The Supply Chain Agreement will facilitate collaboration efforts among the IPEF partners on supply chain resilience, emergency response, and worker rights programs.⁷⁷ It creates several standing bodies that will examine supply chain resilience policy issues and support reform and cooperation efforts.

Now that the agreement has entered into force, work will intensify on the activities of the three committees established by the agreement: Supply Chain Council, Crisis Response Network, and Labor Rights Advisory Board. In its announcement of the agreement's entry into force, the US Commerce Department laid out a timeline for the next steps:

- "Identifying the representatives to the Agreement's three supply chain bodies by no later than March 25;"
- "Selecting the Chair of each of the supply chain bodies by no later than April 24;"
- "Each body adopting the terms of reference by no later than June 23;"
- "Identifying and notifying partners of each country's list of critical sectors and key goods for cooperation under the Agreement by no later than 120 days after the date of the entry into force for each country; and"
- "Developing the guidelines for the facility-specific reporting mechanism on labor rights inconsistencies in IPEF supply chains by no later than August 22."

The other IPEF pillars

The parties substantially concluded Pillar III (Clean Economy) and Pillar IV (Fair Economy) at the November 2023 IPEF leaders' meeting.⁷⁸ The two agreements are now undergoing legal scrub before their signing and entry into force. A date for publication of the texts and the signing ceremony have not yet been announced.

- 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. As one of the first events for the clean economy forum, Singapore will host the IPEF Clean Economy Investor Forum in the next few months.
- 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." The agreement contains various proposals to cooperate on preventing corruption and improving tax enforcement.

⁷⁷ The Indo-Pacific Economic Framework for Prosperity Agreement Relating to Supply Chain Resilience text is accessible here: <https://www.commerce.gov/sites/default/files/2023-09/2023-09-07-IPEF-Pillar-II-Final-Text-Public-Release.pdf>.

⁷⁸ "Joint Statement From Indo-Pacific Economic Framework For Prosperity Partner Nations," accessible here: <https://www.commerce.gov/news/press-releases/2023/11/joint-statement-indo-pacific-economic-framework-prosperity-partner>.

The parties have not yet completed Pillar I (Trade), which is led by the US Trade Representative (USTR). Though USTR has said that there will be additional negotiating rounds for Pillar I in 2024, a schedule has not yet been announced.

CPTPP

UK and Canada Suspend FTA Negotiations; Canada's Ratification of UK's CPTPP Accession Uncertain

The United Kingdom and Canada have suspended indefinitely their negotiations on a new FTA to replace the "rollover" FTA that they agreed to maintain after Brexit. The breakdown in talks occurred principally because of the UK's refusal to relax its ban on imports of hormone-treated beef or to offer Canada instead enhanced import quotas for hormone-free beef. For its part, Canada has not agreed to a further extension of the three-year post-Brexit deal allowing the UK a share of the EU quota for cheese imports.

The breakdown in negotiations could have an impact on Canada's willingness to ratify the UK's accession to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). Canada has not yet initiated parliamentary proceedings to agree on ratification and its farming industry is opposing ratification because of its dissatisfaction with the agricultural market access terms that Canada agreed to as part of the UK's CPTPP accession deal. Canada does not have the power to veto the UK's CPTPP accession, but it could delay it.

The UK's protocol of Accession will enter into force 60 days after all existing members of the CPTPP give notice that they have completed their domestic ratification procedures, but if that process has not been completed within 15 months (*i.e.*, by mid-October 2024) then accession can take place 60 days after the UK and at least six CPTPP members have completed their ratification processes. Japan and Singapore have already completed their ratifications of the UK's accession but the absence of an instrument of ratification from Canada would represent a significant disappointment for the UK. It would also delay the application by Canada of its obligations under the CPTPP to the UK.

After two years of negotiation, the breakdown with Canada represents a blow for the UK's aspirations to expand its FTA network and it could affect the replacement of other "rollover" agreements that are currently under negotiation with Mexico, Switzerland, Turkey, and Israel and that have just begun with Korea. The breakdown means also that until the CPTPP enters into force between the UK and Canada, the UK will continue to trade with Canada under most of the same terms that it had previously through the EU-Canada Comprehensive Economic and Trade Agreement (CETA) agreement, but with the important difference that from March 1, 2024, the UK will no longer be able to count EU products as "qualifying" products for preferential exports to Canada which is when the interim UK-Canada agreement on rules of origin will lapse. This is important for UK exports of automobiles to Canada, which incorporate a large proportion of EU-made parts, and which are the single largest item of UK exports of goods to Canada. It would leave the UK with worse terms for its trade with Canada than it had previously as an EU member state.

Petitions & Investigations

Investigations

ITC Initiates ADD and CVD Investigations into Melamine from Germany, India, Japan, Netherlands, Qatar, and Trinidad and Tobago

On February 21, 2023, the ITC published notice of the institution of antidumping duty (ADD) and countervailing duty (CVD) investigations and scheduling of the preliminary phase of investigations on imports of melamine from Germany, India, Japan, Netherlands, Qatar, and Trinidad and Tobago.⁷⁹ The ITC's preliminary investigations will seek to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury (or the establishment of an industry in the United States is materially retarded), by reason of imports of melamine from Germany, India, Japan, Netherlands, Qatar, and Trinidad and Tobago, that are (i) alleged to be sold in the United States at less than fair value and (ii) alleged to be subsidized by the Governments of Germany, India, Qatar, and Trinidad and Tobago. Unless the Department of Commerce (DOC) extends the timeline, the ITC will reach its preliminary determinations by April 1, 2024 and transmit its findings to DOC by April 8, 2024.

Concurrent investigations by DOC will determine whether imports of melamine were dumped in the United States and whether the governments of the targeted countries subsidized exports of melamine. By March 5, 2024, DOC must decide whether the ADD and CVD petitions contain the legally required information.

Cornerstone Chemical Company filed the petitions on February 14, 2024, alleging that imports of melamine from Germany, India, Japan, the Netherlands, Qatar, and Trinidad and Tobago are being sold in the United States at less than fair value and that the governments of Germany, India, Qatar, and Trinidad and Tobago are providing countervailable subsidies. The petition alleges dumping rates of 5 – 140% for Germany, 378 – 619% for India, 104 – 124% for Japan, 33 – 75% for the Netherlands, 191 – 622% for Qatar, and 230 – 458% for Trinidad and Tobago. The petitioner did not provide specific countervailable rates for the CVD allegations.

In 2023, the Japan exported \$1.4 million of melamine to the United States, a slight decrease from \$1.9 million in 2022. In total, the United States imported \$50.5 million of melamine from the target countries in 2023 and \$138.8 million in 2022.

Covered product

The merchandise subject to these investigations is melamine (Chemical Abstracts Service (CAS) registry number 108-78-01, molecular formula C₃H₆N₆). Melamine is a crystalline powder or granule typically (but not exclusively) used to manufacture melamine formaldehyde resins. All melamine is covered by the scope of these orders irrespective of purity, particle size, or physical form. Melamine that has been blended with other products is included within this scope when such blends include constituent parts that have been intermingled, but that have not been chemically reacted with each other to produce a different product. For such blends, only the melamine component of the mixture is covered by the scope of these orders. Melamine that is otherwise subject to these orders is not excluded when commingled with melamine from sources not subject to this investigation. Only the subject component of such commingled products is covered by the scope of these orders.

⁷⁹ "Melamine From Germany, India, Japan, Netherlands, Qatar, and Trinidad and Tobago; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations," 89 FR 13090 (February 14, 2024), accessible here: <https://www.federalregister.gov/documents/2024/02/21/2024-03497/melamine-from-germany-india-japan-netherlands-qatar-and-trinidad-and-tobago-institution-of>.

The subject merchandise is listed in subheading 2933.61.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading and CAS registry number are provided for convenience, the written description of the scope is dispositive.

ITC Schedules Expedited Five-year Review for Antidumping Duties on Clad Steel Plate from Japan

On February 22, 2024, the ITC published a notice for the scheduling of an expedited five-year review of the ADD order on clad steel plate from Japan.⁸⁰ The review will determine whether revocation of the ADD order would likely lead to continuation or recurrence of material injury within a reasonably foreseeable time. The ITC determined it would conduct an expedited review after the domestic interested party submitted an adequate response to the notice of institution, but the respondent party's response was found to be inadequate. The ITC first announced the review (the fifth for this ADD order) on November 1, 2023.⁸¹

DOC also announced the initiation of its portion of the fifth five-year review on November 1, 2023.⁸² DOC's review will determine whether revocation of the ADD order would likely lead to a continuation or recurrence of dumping.

The scope of the order is all clad steel plates from Japan with a width of 600 millimeters (mm) or more and a composite thickness of 4.5 mm or more. Clad steel plate is a rectangular finished steel mill product consisting of a layer of cladding material (usually stainless steel or nickel) which is metallurgically bonded to a base or backing of ferrous metal (usually carbon or low alloy steel) where the latter predominates by weight. Cladding is the association of layers of metals of different colors or natures by molecular interpenetration of the surfaces in contact. Products under this order are classified in HTSUS 7210.90.10.00, though the written description is dispositive.

⁸⁰ "Clad Steel Plate From Japan; Scheduling of an Expedited Five-Year Review," 89 FR 13375 (February 22, 2024), accessible here: <https://www.federalregister.gov/documents/2024/02/22/2024-03546/clad-steel-plate-from-japan-scheduling-of-an-expedited-five-year-review>.

⁸¹ "Clad Steel Plate from Japan; Institution of a Five-Year Review," 88 FR 75026 (November 1, 2023), accessible here: <https://www.federalregister.gov/documents/2023/11/01/2023-24016/clad-steel-plate-from-japan-institution-of-a-five-year-review>.

⁸² "Initiation of Five-Year (Sunset) Reviews," 88 FR 74977 (November 1, 2023), accessible here: <https://www.federalregister.gov/documents/2023/11/01/2023-24101/initiation-of-five-year-sunset-reviews>.