

US Multilateral Trade and Policy Developments

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Trade Policy Developments

United States Announces Tougher Screening of Textile and Apparel Imports

The US Department of Homeland Security (DHS) unveiled a new plan for tighter customs enforcement for imported textiles and apparel products on April 5, 2024, after the US domestic apparel industry raised concerns about unfair trade practices.¹ The plan mostly focuses on ensuring companies are using free trade agreement (FTA) preferential duties properly and enforcing existing import laws more aggressively in the sector, much of which US Customs and Border Protection (CBP) has already begun doing in recent months. Though the regulations importers face may not change, higher audit rates, increased detentions, and more site verifications could increase costs substantially for targeted companies and require heightened supply chain monitoring.

Enforcement approaches

The new enforcement plan prioritizes use of the following policy tools:

- **Improved screening of imports that enter under the Section 321 customs *de minimis*:** CBP plans to increase targeting of *de minimis* apparel and textile shipments for forced labor and other import law violations. Legislators are increasingly calling for the United States to reduce its customs *de minimis* thresholds, which would likely require an act of Congress. CBP, in the meantime, has begun taking its own actions to increase targeting of these packages under its current authorities. Though apparel shipments are a priority, the proposed changes cover all sectors. 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 issuing 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.”²
- **Increased law enforcement targeting of textile smuggling:** CBP and Homeland Security Investigations (HSI) will increase physical inspections, country-of-origin verifications, and laboratory testing, as well as more closely examining import documentation. To this end, CBP and HSI have recently undertaken 15 trade special operations inspecting cargo and conducting post-release reviews of FTA eligibility. CBP has also opened new isotopic testing labs at several US ports since late 2023, which will allow inspectors to determine where cotton was originally grown. The method will help CBP track cotton that violates import laws like the Uyghur Forced Labor Prevention Act (UFLPA) and verify country of origin for preferential duty claims.
- **Increasing audits and verification visits:** DHS is increasing the rate of CBP audits of foreign manufacturers seeking to qualify for US-Mexico-Canada Agreement (USMCA) and Central America-Dominican Republic Free Trade Agreement (CAFTA-DR) duty exemptions for apparel and textile shipments. CBP expects to double the number of site verifications it carries out in 2024 relative to 2023. Textile Production Verification Teams (TPVT) recently visited 44 factories and raw material suppliers in Mexico and Honduras to review FTA preference claims.
- **Expanding the UFLPA entity list:** DHS says it is reviewing additional entities from the apparel sector for potential inclusion on the UFLPA Entity List. Ten of the currently listed entities are connected to the apparel sector, but DHS has not added any new companies to the list since December 2023.

¹ “New DHS Textile Enforcement Actions Crack Down on Illicit Trade to Support 500,000 American Textile Jobs,” DHS, April 5, 2024, accessible here: <https://www.dhs.gov/news/2024/04/05/new-dhs-textile-enforcement-actions-crack-down-illicit-trade-support-500000>.

² 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>.

- **Increasing stakeholder awareness** about US import laws in USMCA and CAFTA-DR countries and improving facilitation efforts for legitimate trade.

Active enforcement efforts

The textiles sector is already a priority area for CBP enforcement, owing to its political sensitivity, higher tariffs and more complex entry rules than other sectors.³ In fiscal year 2023, CBP seized over 5,000 textile-related shipments worth \$129 million, issued \$19.3 million in fines, and recovered \$2 million from shipments that underpaid duties.⁴

Cotton and apparel products containing cotton have also been a priority area for UFLPA enforcement since the law entered force in 2022. Of the 7,566 shipments that CBP has detained since UFLPA entered force, 1,327 are apparel. However, these detained shipments are of relatively low value at just 1.9% of all detained shipments by value, leading anti-forced labor activists to argue CBP's enforcement has been insufficient. CBP may already be starting to follow through on increasing UFLPA enforcement against multinational textile supply chains. In the past few months, CBP has been increasingly detaining apparel and textile shipments from third countries – most notably Nicaragua, the Philippines, and Sri Lanka – on suspicion of using cotton sourced from China.

The US textile industry argues these efforts are insufficient and has been lobbying DHS for stricter enforcement of trade rules and FTA provisions. In a January 30, 2024 meeting between Secretary of Homeland Security Alejandro Mayorkas and the National Council of Textile Organizations (NCTO), 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.”⁵ Secretary Mayorkas told the industry at the meeting that DHS is increasing the targeting of illegal trade practices and that they would issue an enforcement action plan soon. NCTO praised DHS’s new plan upon its release, noting how DHS has already begun implementing several of the strategies’ elements, and called for further action in the sector.⁶ A broader coalition of retail and apparel associations also welcomed the new plan, but called on DHS to collaborate more with industry and ensure enforcement efforts incentivize new investment, rather than deterring it.⁷

House Of Representatives Introduces Bill Advocating for Trade Policy Focus on the Indo-Pacific

On April 11, 2024, a bipartisan group of Representatives introduced the US Trade Leadership in the Indo-Pacific Act (USTLIPA) to the House of the Representatives, which they described as a bill to “reassert Congressional authority on Indo-Pacific trade.”⁸ The bill would establish a new Indo-Pacific Trade Strategy Commission to lead policy

³ Priority Trade Issue: Textiles, CBP, accessible here: <https://www.cbp.gov/trade/priority-issues/textiles>.

⁴ “FY 2023 textile enforcement stats show CBP’s efforts to protect American industry,” CBP, October 25, 2023, accessible here: <https://www.cbp.gov/newsroom/national-media-release/fy-2023-textile-enforcement-stats-show-cbp-s-efforts-protect>.

⁵ “Readout of Secretary of Homeland Security Alejandro N. Mayorkas’ Meeting with the National Council of Textile Organizations,” DHS, January 30, 2024, accessible here: <https://www.dhs.gov/news/2024/01/30/readout-secretary-homeland-security-alejandro-n-mayorkas-meeting-national-council>.

⁶ “NCTO Praises DHS Textile And Apparel Enforcement Plan As A Critical Step To Combatting Pervasive Customs Fraud & Predatory Trade Practices,” NCTO, April 5, 2024, accessible here: <http://www.ncto.org/ncto-praises-dhs-textile-and-apparel-enforcement-plan-as-a-critical-step-to-combatting-pervasive-customs-fraud-predatory-trade-practices/>.

⁷ Joint Association Statement on New DHS Textile Trade Enforcement, April 5, 2024, accessible here: https://www.aafaglobal.org/AAFA/AAFA_News/2024_Press_Releases/Joint_Association_Statement_DHS_Textile_Trade_Enforcement.aspx.

⁸ See the sponsor’s press statement for a copy of the bill’s text, at “Miller, Colleagues Introduce Bipartisan Bill to Reassert Congressional Authority on Indo-Pacific Trade,” April 11, 2024, accessible here: <https://miller.house.gov/media/press-releases/miller-colleagues-introduce-bipartisan-bill-reassert-congressional-authority>; see also, H.R.7962 - To advance United States long-term trade competitiveness and economic leadership in the Indo-Pacific region, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/7962>.

development for the region, which the Representatives argue is necessary to restore Congressional trade policy authority and push the country to reengage with partners in the Indo-Pacific.

Content of the USTLIPA

The bill opens with a general statement of Congress' interests in the Indo-Pacific. The section highlights the large size of the region's economy and population, the positioning of US allies in the region, bipartisan support in the United States in having a durable economic presence in the region, and dissatisfaction with the Biden administration's approach to the region. It also argues the United States' interest in engaging with the region is increasingly urgent due to "heightened aggression and pressure from the PRC [China], which seeks to expand its influence by actively pursuing trade agreements with key partners in the Indo-Pacific that establish preferential treatment for goods and services, deepen supply chain integration, and establish rules based on the PRC's state-led authoritarian economic model that undercut America's workers, businesses, and economic security." The statement concludes by asserting Congress needs to work with the president on a bipartisan basis to improve US policy in the region and create a more comprehensive trade strategy.

The second section of the bill would direct the US International Trade Commission (ITC) to perform an investigation of US trade policy interests in the region. The investigation would cover (i) how market access preferences in regional trade agreements like the Regional Comprehensive Economic Partnership (RCEP) and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) affect US competitiveness in the region; (ii) how existing non-tariff barriers in the Indo-Pacific are affecting US competitiveness; (iii) how existing trade agreements in the region are affecting US supply chain security; and (iv) the differences between the United States-Mexico-Canada Agreement (USMCA), CPTPP, RCEP, and other important trade agreements in the region. An ITC study like the one described in the bill could still be conducted even if the bill does not pass. The House Ways and Means Committee (on which most of the bill's sponsors sit) has the power to direct the ITC to conduct general factfinding investigations on trade policy issues. It is unclear why the USTLIPA's sponsors included the investigation order in the bill rather than relay it directly to the ITC under the existing authorities.

Finally, the USTLIPA would establish a new Indo-Pacific Trade Strategy Commission tasked with developing a new comprehensive trade strategy for the region. The Commission's strategy would seek to (i) ensure continued US leadership in the region; (ii) promote US exports; (iii) counter China's growing influence; (iv) promote US values and norms; (v) strengthen the US economy; (vi) address supply chain vulnerabilities and improve economic security in line with the May 2023 G7 Leaders' Statement on Economic Resilience and Economic Security;⁹ and (vii) promote supply chain resilience. The Commission would comprise 12 Indo-Pacific trade specialists appointed by the House Committee on Ways and Means and the Senate Committee on Finance. The Commissioners would hold public meetings and provide opportunities for the public to offer input on their work. The Commission would submit its final policy report to Congress within 18 months of its establishment.

Situation in Congress

The USTLIPA is emblematic of growing restlessness with the Biden administration's lack of an assertive trade policy among pro-business members of Congress. The Representatives have been frustrated by the low ambition in the Indo-Pacific Economic Framework for Prosperity (IPEF) and lack of any clear administration strategy for deeper economic engagement in the region. The bill's supporters also cite concerns that China's economic influence in the region is growing because of the United States' absence, an argument that may appeal to the growing number of US politicians who view China's rise as a threat to the United States. In announcing the bill, Rep. Miller argued the "Biden

⁹ G7 Leaders' Statement on Economic Resilience and Economic Security, May 20, 2023, accessible here: <https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/20/g7-leaders-statement-on-economic-resilience-and-economic-security/>.

Administration's inaction on trade has left gaping holes that the Chinese Communist Party is more than happy to fill, and Congress must step up."

The bill is sponsored by Representatives Carol Miller (R-WV), Jimmy Panetta (D-CA), Adrian Smith (R-NE), Don Beyer (D-VA), Darin LaHood (R-IL), and Ami Bera (D-CA). Reps. Miller, Panetta, Smith, Beyer, and LaHood are members of the House Ways and Means Subcommittee on Trade, while Rep. Bera is the ranking member on the House Foreign Affairs Subcommittee on the Indo-Pacific.

Rep. Miller introduced a similar bill in the 2021-2022 legislative session, which never advanced past committee.¹⁰ The 2024 version was significantly revised and would now establish a Congressional commission to develop policy recommendations rather than entrust the matter to the Office of the United States Trade Representative (USTR) like the earlier bill had. The 2024 version also has a more bipartisan base of support, having brought on several more Democrat co-sponsors and endorsements from major US business associations.

Congress is nearing the end of its term, which limits the time available to consider any new legislation at this stage. Even though it likely has little chance of passing, the bill could still be a useful messaging exercise to highlight Congress' desire for the United States to become more active in the Indo-Pacific. The House Ways and Means Committee will hold a hearing on the Biden administration's trade policy with US Trade Representative Katherine Tai on April 16, 2024, which would give the bill's supporters an opportunity to pressure the Biden administration about its lack of a clear trade policy in the region.¹¹

Japanese State Visit to Washington Features Economic and Technology Cooperation Initiatives

Japanese Prime Minister Kishida Fumio visited the United States from April 8-14, 2024, meeting with US President Joe Biden, addressing a joint session of Congress, meeting with US and Japanese businesses, and holding a trilateral summit with the United States and the Philippines. The leaders used the occasion to highlight a variety of new and ongoing space, economic, technology, climate change, humanitarian, and people-to-people cooperation programs. Economic security was also on the agenda, with the leaders discussing deepening coordination on economic coercion, non-market policies and overcapacity, and supply chain resilience. The most notable outcomes were in national security policy, where the leaders marked a notable upgrade to the US-Japan defense alliance, including closer alignment of command-and-control systems and new areas of defense industrial cooperation.

Increasing economic and technology cooperation

As with the Biden administration's other engagements with foreign governments, the summit's agenda focused heavily on government-led partnerships for economic and technology development cooperation.¹² The meeting's outcome statement made little mention of improving market access and new business development for the private sector. Among the various initiatives endorsed were the following:

¹⁰ H.R.6114 - US Trade Leadership in the Indo-Pacific and China Act, 117th Congress (2021-2022), accessible here: <https://www.congress.gov/bills/117/congress/house-bill/6114>.

¹¹ Hearing: The Biden Administration's 2024 Trade Policy Agenda with United States Trade Representative Katherine Tai, accessible here: <https://waysandmeans.house.gov/event/hearing-on-the-biden-administrations-2024-trade-policy-agenda-with-united-states-trade-representative-katherine-tai/>.

¹² Fact Sheet: Japan Official Visit with State Dinner to the United States, April 10, 2024, accessible here: <https://www.whitehouse.gov/briefing-room/statements-releases/2024/04/10/fact-sheet-japan-official-visit-with-state-dinner-to-the-united-states/>; and United States-Japan Joint Leaders' Statement, April 10, 2024, accessible here: <https://www.whitehouse.gov/briefing-room/statements-releases/2024/04/10/united-states-japan-joint-leaders-statement/>.

- Highlighting new investments and research cooperation in AI, quantum computing, semiconductors, and biotechnology, including a revised project arrangement for AI research between Riken and Argonne National Laboratory and numerous private sector initiatives.
- Signing of a Lunar Surface Exploration Implementing Arrangement, under which Japan plans to provide a lunar rover for a prospective US-led mission to the moon. In return, the United States would allocate space for Japanese astronauts on the missions.
- Signing of a Memorandum of Cooperation between the US National Science Foundation (NSF) and the Japan Science and Technology Agency (JST) to partner on NSF's Innovation Corps (I-Corps) program, which will issue grants supporting lab-to-market transitions in bioeconomy research.
- Signing of a Memorandum of Cooperation between Japan's National Institute of Advanced Industrial Science and Technology (AIST) and the US National Institute of Standards and Technology (NIST) for quantum computing. NIST and AIST intend to partner on supply chain and standards development for the newly emerging technology.
- Developing a new cooperation agenda for semiconductor development, which builds on the parties' "long history of cooperation on semiconductor technology." The leaders welcomed a new discussion between Japan's Leading-Edge Semiconductor Technology Center and the US National Semiconductor Technology Center and National Advanced Packaging Manufacturing Program about potential cooperation on workforce development and research and encouraged more private sector collaboration. The leaders' statement also highlighted concerns with mature node/legacy semiconductor supply chains, where the United States has become increasingly concerned about China's growing market share. The leaders mentioned these issues as a priority area for the US-Japan Economic Policy Consultative Committee.
- Announcing the launch of a new high-level dialogue on implementing and coordinating domestic green energy policies, including the US Inflation Reduction Act (IRA) and Japan's Green Transformation (GX) Promotion Strategy. Japan will also be the first international collaborator with the US Floating Offshore Wind Shot, a program meant to accelerate innovation for offshore wind energy production. The countries also announced a new US-Japan Strategic Partnership to Accelerate Fusion Energy Demonstration and Commercialization for advancing nuclear fusion energy.¹³
- Deepening cooperation on health security and innovation, including announcing a new cancer research partnership between the US Food and Drug Administration (FDA) and Japan's Pharmaceuticals and Medical Devices Agency (PMDA). PMDA plans to open a representative office in Washington, DC, to support collaboration between the two governments. The US Centers for Disease Control and Prevention (CDC) opened a Regional Office for East Asia and the Pacific in Tokyo in February.

The leaders' statement also highlighted ongoing economic cooperation through the Indo-Pacific Economic Framework for Prosperity (IPEF), G7, Asia-Pacific Economic Cooperation (APEC), Partnership for Global Infrastructure and Investment Lobito Corridor, Minerals Security Partnership (MSP), Partnership for Resilient and Inclusive Supply-chain Enhancement (RISE), US-Japan Economic Policy Consultative Committee, the US-Japan Commercial and Industrial Partnership (JUCIP), and the continued operationalization of data free flow with trust. US Department of Commerce Secretary Gina Raimondo and Japanese Minister of Economy, Trade, and Industry (METI) Saito Ken held the third meeting of the JUCIP alongside the leaders' meeting, discussing cooperation on supply

¹³ Joint Statement between DOE and the Japan Ministry of Education, Sports, Science and Technology Concerning a Strategic Partnership to Accelerate Fusion Energy Demonstration and Commercialization, April 10, 2024, accessible here: <https://www.energy.gov/articles/joint-statement-between-doe-and-japan-ministry-education-sports-science-and-technology>.

chains, non-market policies and practices, and semiconductor cooperation, technology development, and export controls.¹⁴

US-Japan-Philippines Trilateral Summit

Philippine President Ferdinand Marcos Jr joined the US and Japanese leaders for the first ever trilateral leaders' summit between the three countries on April 11, 2024.¹⁵ The meeting discussed shared security concerns, as well as economic development and critical supply chain cooperation. The three leaders announced the Luzon Corridor, a trilateral Partnership for Global Infrastructure and Investment-IPEF Accelerator project to improve connectivity between Subic Bay, Clark, Manila, and Batangas in the Philippines. The countries will support investment in rail, ports modernization, clean energy and semiconductor supply chains, agribusiness, and civilian port upgrades in the region. The parties also announced new investments in helping the Philippines develop Open Radio Access Network (RAN) phone networks, training workers for the semiconductor supply chain, deploying green energy technologies, and developing alternative sources of critical minerals.

Alongside the leaders' events, US Department of Commerce Secretary Gina Raimondo, Japanese Minister of Economy, Trade, and Industry Saito Ken, and Philippine Department of Trade and Industry Secretary Alfredo Pascual met to discuss trilateral economic cooperation.¹⁶ The meeting touched on critical minerals supply chains, semiconductor industry development, Open Ran, clean energy, and infrastructure development.

House of Representatives Advances Bill to Revive the Generalized System of Preferences

On April 17, 2024, the House Ways and Means Committee approved a bill to renew the Generalized System of Preferences (GSP). H.R. 7986, the Generalized System of Preferences Reform Act,¹⁷ would extend GSP through December 31, 2030 and retroactively apply preferential treatment to imports that entered the United States following the expiration of the previous GSP program on December 31, 2020.

The bill also proposes notable changes to how the GSP program works, which its sponsors have described as the largest reform to the GSP program since its inception. Most of these proposed changes are motivated by desires among Republicans to leverage GSP to encourage supply chains to move out of China and to use threats of retracting GSP benefits to pressure developing countries into providing more market access to US exporters. Those changes include substantially expanding the market access and good governance qualifying conditions for beneficiary countries, adding new restrictions on those countries' engagement with China and other US adversaries, raising rules of origin thresholds, and doubling the competitive needs limitations (CNLs).

Though introduced by Republicans, the proposal appears to be a first step toward negotiating a bipartisan compromise. The Republicans added new qualification conditions for labor and environmental protection resembling language that Democrats have sought in previous proposals, but the Democrats have not yet been convinced to back the bill. To become law, the bill will now have to pass a vote in the full House, pass the Senate, and then be signed into law by the president.

¹⁴ Joint Press Release: Japan – US Commercial and Industrial Partnership Ministerial Meeting, April 10, 2024, accessible here: <https://www.commerce.gov/news/press-releases/2024/04/joint-press-release-japan-us-commercial-and-industrial-partnership>.

¹⁵ Joint Vision Statement from the Leaders of Japan, the Philippines, and the United States, April 11, 2024, accessible here: <https://www.whitehouse.gov/briefing-room/statements-releases/2024/04/11/joint-vision-statement-from-the-leaders-of-japan-the-philippines-and-the-united-states/>.

¹⁶ US-Japan-Philippines Commerce and Industry Ministerial Joint Readout, April 11, 2024, accessible here: <https://www.commerce.gov/news/press-releases/2024/04/us-japan-philippines-commerce-and-industry-ministerial-joint-readout>.

¹⁷ H.R.7986 - To modify and reauthorize the Generalized System of Preferences, and for other purposes, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bills/118th-congress/house-bill/7986>; and the latest text of the bill, as amended by the House Ways and Means Committee, accessible here: <https://gop-waysandmeans.house.gov/wp-content/uploads/2024/04/H.R.-7986-AINS.pdf>.

Situation in Congress

Rep. Adrian Smith (R-NE), chair of the House Ways and Means trade subcommittee, introduced H.R. 7986 on April 15, 2024. The House Ways and Means Committee quickly approved the bill by a vote of 25 to 17 along partisan lines during an April 17, 2024 markup session.¹⁸ All Republicans on the committee voted for the bill and all Democrats either voted against it or abstained. Though the Democrats support a reauthorization of GSP in principle, the party appears to be seeking additional concessions from the Republicans before backing reauthorization. Democrats also objected to how quickly the Republicans pushed the bill through the Ways and Means Committee, which appears to have been so quick that it prevented Democratic party committee members from fully reviewing and responding to the bill.

The bill's Republican drafters included new labor and environmental protection requirements that Democrats have been seeking. Rep. Smith described the requirements as reflecting the labor and environmental commitments in the United States-Mexico-Canada Agreement (USMCA), which is the baseline that Democrats had been seeking.¹⁹ The labor, environment, good governance, and country eligibility review transparency provisions are also mostly identical to those included in Senator Ron Wyden's (D-OR) compromise proposal from 2021, though the House bill excludes the worker rights assessment report that Sen. Wyden's bill contained.²⁰ Whether these additions will be enough to win Democrat support is unclear. Some on the left have argued the language of the labor rights section does not go far enough.

Besides new rules on labor and environmental protection, Democrats also want to pair GSP renewal with renewing Trade Adjustment Assistance (TAA). TAA, which expired in June 2022, provides financial assistance to US workers who lose their jobs because of import competition. Democrats have always sought to pair TAA with reauthorization of the other trade programs. Though the outcome is still uncertain, if the bill's labor and environmental provisions are satisfactory to Democrats and TAA can be paired with it, then most Democrats on the Ways and Means Committee could probably be convinced to support the bill. That said, Republicans may resist including TAA renewal. Republicans see TAA as tied more closely with renewal of Trade Promotion Authority (TPA), a bill that gives the president authority to negotiate free trade agreements and is also usually renewed as part of this trade legislation package. Democrats have shied away from renewing TPA amid a broader political turn against free trade agreements and a lack of support from the Biden administration, much to the frustration of Ways and Means Committee Republicans.

Another measure usually paired with GSP reauthorization missing from the bill is renewal of the Miscellaneous Tariff Bill (MTB). The MTB is a companion bill that temporarily reduces or suspends import tariffs on certain products that are not manufactured in the United States. Political support appears to be falling away from any reauthorization of MTB, with some members of Congress objecting to how the tariff cuts would apply to imports from China.

Changes to qualifications for beneficiary countries

¹⁸ The House Ways and Means Committee held a markup session for bills addressing Republican trade policy priorities on April 17, 2024, which included this GSP bill. A full list of the bills considered can be found on the Committee website at "Markup of H.R. 5179, H.R. 7981, H.R. 7979, H.R. 7983, H.R. 7980, and H.R. 7986," accessible here: <https://waysandmeans.house.gov/event/markup-of-h-r-5179-h-r-7981-h-r-7979-h-r-7983-h-r-7980-and-h-r-7986/>.

¹⁹ Rep. Earl Blumenauer (D-OR) introduced the latest Democrat proposal containing their desired labor and environmental provisions in June 2023: H.R. 4276, the American Worker and Trade Competitiveness Act, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bills/118th-congress/house-bill/4276>.

²⁰ "Wyden Announces Legislation to Extend Trade Preferences and Tariff Relief," Senate Committee on Finance, May 18, 2021, accessible here: <https://www.finance.senate.gov/chairmans-news/wyden-announces-legislation-to-extend-trade-preferences-and-tariff-relief>.

The bill would make extensive changes to the criteria countries must meet to be eligible for GSP, making it tougher for countries to qualify and increasing the risk that the United States Trade Representative (USTR) could drop countries from the program over policy disputes.

To the list of conditions that would disqualify a country from GSP eligibility, the bill would add new exclusions for countries that have:

- Repeatedly failed (in a manner affecting trade and investment) to effectively enforce their environmental laws or adopt and implement common multilateral environmental agreements;²¹ or
- Engaged in gross violations of international recognized human rights in that country.

The bill's amended qualifications would also explicitly exclude China from ever qualifying for GSP, though China is already ineligible in practice.

To the list of non-mandatory conditions that USTR should consider when designating a country for GSP eligibility, the bill would direct USTR to consider the extent to which a country:

- Allows construction of military bases in its territory by covered nations (*i.e.*, China, North Korea, Russia, and Iran);
- Deepens its economic, military, and diplomatic relations with covered nations;
- Engages in actions that undermine US security and diplomatic interests;
- Provides market access for US agriculture, including by adopting science-based food standards;
- Refrains from restricting agriculture biotechnology;
- Refrains from providing trade-distorting agriculture subsidies;
- Refrains from applying geographical indications to food terms that the United States considers generic;
- Makes progress toward rule of law, poverty reduction, economic development, combatting corruption, and other good governance standards;
- Provides nondiscriminatory tax treatment for the United States (a likely reference to digital services taxes);
- Effectively enforces its environmental laws;
- Achieves the goals of the Women's Entrepreneurship and Economic Empowerment Act of 2018, a law that requires US international economic development policy to reduce gender inequality;²²
- Imposes unreasonable digital trade barriers like data localization requirements; and

²¹ "Common multilateral environmental agreements" means the 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora; the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer; Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships; the 1971 Convention on Wetlands of International Importance, Especially as Waterfowl Habitat; the 1980 Convention on the Conservation of Antarctic Marine Living Resources; the 1946 International Convention for the Regulation of Whaling; and the 1949 Convention for the Establishment of an Inter-American Tropical Tuna Commission.

²² Women's Entrepreneurship and Economic Empowerment Act of 2018 (22 U.S.C. 2151–2(b)), accessible here: <https://uscode.house.gov/view.xhtml?hl=false&edition=prelim&req=granuleid%3AUSC-prelim-title22-section2151-2&num=0&saved=%7CKHRpdGxIOjlyIHNIY3Rpb246MjE1MSBIZGI0aW9uOnByZWxpbSk%3D%7C%7C%7C0%7Cfalse%7Cprelim>.

- Takes steps to support consumer protection and privacy in the digital economy.²³

Some of these new, stricter conditions are based on language from the African Growth and Opportunity Act (AGOA), a separate and more generous tariff preference program for developing countries in Sub-Saharan Africa. Others, especially those related to curtailing relations with China, are new.

GSP already includes general provisions stating that a lack of market access, investor protection, and intellectual property protection can affect GSP eligibility. USTR has selectively used those provisions to pressure some developing countries into making policy changes. The Trump administration was especially aggressive in leveraging GSP to improve US market access, a practice the bill's sponsors reference favorably. The new conditions included in this bill – especially for agriculture and digital trade – are far more specific than these past conditions and may push USTR to be more aggressive in monitoring GSP eligible countries.

Changes to the provisions for suspending a country's GSP eligibility

After granting a country GSP eligibility, USTR may withdraw, suspend, or limit GSP eligibility for a country if that country's circumstances change to a degree to which it would no longer meet the qualification criteria.

The bill would amend the process for withdrawing benefits by adding two new sections directing USTR to mitigate the potential negative effects of withdrawing GSP benefits. The first section would direct USTR to consider the possible negative impacts of withdrawing GSP status on the factors listed as qualifying conditions, including the negative effects on the workers whom GSP is intended to help. The second section would then direct USTR to ensure continuing duty-free access when withdrawal of GSP benefits would undermine the policy objectives of the GSP qualifying criteria or result in severe economic harm.

The bill would also increase transparency and public consultation on the eligibility determinations. This provision would require USTR to hold public hearings and provide for public comment periods when considering suspending or terminating benefits. USTR would publish its determinations on petitions for eligibility review to the Federal Register. USTR would also have to conduct its own assessments at least every three years for GSP-eligible countries to determine whether the country should be subject to a full eligibility review.

Stricter rules of origin and US content preference

The bill would heighten the rules of origin thresholds that products from beneficiary countries must meet to qualify for GSP treatment. Currently, the threshold value that must originate in GSP countries for a product to qualify for duty-free treatment is 35%. Under the new bill, the threshold will start at 35% in 2027, but then rise to 50% by the end of 2030. The bill would also allow exporters to count certain amounts of US-origin value toward the rules of origin thresholds, creating a new flexibility to the rules of origin and favoring US content. A 50% origin threshold is unusually high for GSP and may be unrealistic for many developing countries. The bill's sponsors assert these changes are “designed to ensure both developing beneficiary countries and the United States benefit from the program, not third countries like China.”

Raising the CNLs

The bill would also raise the GSP program's CNLs, provisions which require USTR to suspend GSP eligibility when a country's GSP-qualifying exports exceed certain dollar value and import share thresholds.²⁴ Increasing the CNLs will

²³ The two digital policy standards were previously proposed by Rep. Darin LaHood (R-IL) in H.R.6990 - Digital Trade for Development Act, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/6990>.

²⁴ This section of the bill is partly based on Reps. Blake Moore (R-UT) and Suzan DelBene's (D-WA) H.R.6555 - CNL Update Act of 2023, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/6555>.

allow countries to benefit from the program for longer and could incentivize more investment in the beneficiary countries.

The bill more than doubles the annual dollar cap on qualifying exports of each good from beneficiary countries, increasing it from the current \$215 million to \$500 million. The level would increase by 2.5% each year, which would allow the CNL level to increase with the inflation rate. The previous CNL could only increase by \$5 million per year, which meant it gradually fell behind the inflation rate and diminished GSP's usability.

Under current rules, exports of a covered product from a beneficiary country may also be excluded from duty free treatment if the product's imports from that beneficiary country exceed 50% of all US imports of the product. The bill would ease this restriction by raising its *de minimis* exception to \$50 million of imports of the products (which would also increase by 2.5% per year). The *new minimis* is double the 2020 *de minimis* level of \$25 million.

The bill would also expand the scope of the Not Produced in the United States (NPUS) Waivers so that they would override certain "super CNL" waiver limitations. Under current law, USTR can issue NPUS Waivers when a product has exceeded the CNL but is not produced in the United States (several other CNL waiver authorities also exist, which the bill would not change). The super CNL requires USTR to suspend product waivers — including NPUS Waivers — when imports of the covered product reach a second set of higher import share and dollar value thresholds. Under the bill, the super CNL rule that cancels waivers after five years when imports of product from a single beneficiary country exceed 75% of all imports of that product will no longer apply to NPUS Waivers.

Expediting a new product coverage review

The bill instructs the US International Trade Commission (ITC) to initiate a new review of GSP product coverage within 90 days of the bill's enactment.²⁵ ITC would invite public petitions proposing to designate new products as eligible for duty-free treatment, which ITC would then publish for review and public responses. ITC would then provide a report to Congress discussing each of these potential changes for consideration. Congress could add or remove products from GSP coverage based on these reviews.

Retroactive application

Like previous late reauthorizations of the GSP, this reauthorization is retroactive the date of the GSP's last expiration. Imports that would have qualified for GSP on December 31, 2020, but that entered the United States between December 31, 2020 and the date on which this bill enters effect will be eligible for refunds on any tariffs paid. To receive the refund, the importer would have to apply to US Customs and Border Protection (CBP) for liquidation or reliquidation within 180 days of the bill's enactment.

United States Introduces New Sanctions, Export Control, and Cross-Border Data Privacy Laws in Emergency Spending Bill

On April 24, 2024, President Biden signed into law H.R. 815, a law containing emergency supplemental appropriations funds for Israel, Ukraine, and Taiwan. The law also contains significant new sanctions, export control, and cross-border data privacy provisions, which mainly target Iran and China.²⁶ The law also extends the statute of limitations for violations of the International Emergency Economic Powers Act (IEEPA) and the Trading with the Enemy Act (TWEA) to 10 years. Several of these measures entered into force immediately on April 24.

²⁵ The text of this section is based on Rep. Carol Miller's (R-WV) recently circulated Expedited Review of Products for GSP Act; see "Miller Introduces the Expedited Review of Products for GSP Act," April 16, 2024, accessible here: <https://miller.house.gov/media/press-releases/miller-introduces-expedited-review-products-gsp-act>.

²⁶ H.R.815 - Making emergency supplemental appropriations for the fiscal year ending September 30, 2024, and for other purposes, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/815>.

Key provisions in H.R. 815

- Divisions A, B, and C of the law provide supplemental appropriations funding for Israel, Ukraine, and the Indo-Pacific region, respectively. These funds are allocated to various US Government agencies to provide foreign assistance and fund additional activities and purchases by the US Government.
- Division D is the 21st Century Peace through Strength Act, which was considered and adopted in the House as H.R. 8038 before being incorporated into H.R. 815. The Act was a collection of numerous other bills and policies and forms the bases of most of H.R. 815's final amended text (other than the funding measures in Divisions A, B, and C). Division D contains the table of contents, while the specific actions incorporated by the Act are in Divisions E through T.
- Division E is the FEND Off Fentanyl Act, which establishes new sanctions for fentanyl trafficking. The President is directed to sanction under IEEPA any person the President determines is knowingly involved in significant trafficking of fentanyl or fentanyl precursors, or other opioids. The Act empowers the President to use IEEPA authorities to implement the Act and the President is directed to report within 180 days, and annually thereafter, on measures taken to implement and enforce the Act. Title II of the FEND Off Fentanyl Act amends the Fentanyl Sanctions Act (21 USC 2311 et seq) to add additional anti-money laundering sanctions for financial transactions involving opioid trafficking. The Department of the Treasury is also required to include in the next update on the national strategy for combatting terrorism a report on trade-based money laundering originating in Mexico or China and involving Burma (Myanmar).
- Under Subtitle B of Title I, a 10-year statute of limitations is added for violations of IEEPA and TWEA. Previously, neither law had a specific statute of limitations so the general 5-year federal statute of limitations had applied instead. The Department of the Treasury is also required to submit classified reports within 180 days to Congress on Office of Foreign Assets Control (OFAC) staffing and actions taken with respect to China.
- Division F is the REPO for Ukrainians Act, which expresses the intent of Congress that Russia should compensate Ukraine and pay for its reconstruction. The Act prohibits the release of frozen Russian sovereign funds until the President makes specific findings and Congress has an opportunity to disapprove such release. The Act also authorizes the President to seize and transfer any "Russian aggressor state sovereign assets" to the Ukraine Support Fund established by the Act. The President may also determine that Belarus is a "Russian aggressor state."
- Division G includes two actions: the first requiring the President to report on persons sanctioned by the EU or UK and whether such sanctioned persons are eligible for sanction under US law. The President is empowered to sanction such persons not already sanctioned under US law. Under the second, the Department of Defense is directed to include in its annual report a list of at least five fields of emerging or critical technologies in which the Chinese military or Chinese civil-military fusion programs are invested.
- Division H is the Protecting Americans from Foreign Adversary Controlled Applications Act, which prohibits operation of applications named in the law (including TikTok) within 270 days of enactment, or a determination by the President that any other application meets the statutory definition.
- Division I is the Protecting Americans' Data from Foreign Adversaries Act of 2024. This new law prohibits a "data broker" from providing "personally identifiable sensitive data of a United States individual" to any foreign adversary country or any entity controlled by a foreign adversary (*i.e.*, China, Iran, North Korea, and Russia). "Controlled by a foreign adversary" is defined to include entities in which any person or entity domiciled or headquartered in, or organized under the laws of, a foreign adversary owns, directly or indirectly, "at least a 20 percent stake." The Federal Trade Commission is directed to enforce the prohibition under the Federal Trade

Commission Act as an unfair or deceptive practice. The definition of “sensitive data” is significantly broader than the definition in Executive Order 14117 on Bulk Sensitive Personal Data recently proposed by the Biden administration. The law takes effect in 60 days.

- Division J is the Stop Harboring Iranian Petroleum (SHIP) Act. This law directs the President to impose sanctions on persons the President determines own or operate a port, vessel, or refinery that knowingly engages in transactions involving Iranian oil. The sanctions also apply to family members and persons owned or controlled by the sanctioned persons. The law directs blocking of property, denial of port privileges, and denial or revocation of visas.
- Division K is the Fight and Combat Rampant Iranian Missile Exports (Fight CRIME) Act. The Act directs the President to sanction any foreign person who the President determines knowingly engaged in activities involving technology identified on the Missile Technology Control Regime Annex and the Government of Iran or Iran aligned entities. The sanctions include blocking of property and denial or revocation of visas. The President is directed to issued regulations to implement the new sanctions within 120 days of enactment.
- Division L is the Mahsa Amini Human rights and Security Accountability (MAHSA) Act, which directs the President to impose sanctions on the Supreme Leader of Iran and other Iranian leaders and submit a report to Congress within 90 days, and annually thereafter, on the sanctions imposed.
- Division M is the Hamas and Other Palestinian Terrorist Groups International Financing Prevention Act. This Act directs the President to impose IEEPA sanctions within 180 days of enactment on each foreign person that the President determines has knowingly assisted in sponsoring or providing significant financial, material, or technological support for, or engaged in significant transactions with, senior members of various Hamas organizations or designated foreign terrorist organizations. The President is directed to issue regulations within 60 days. The Act also directs the President to sanction foreign states that support Hamas and other terrorist organizations by suspending foreign assistance to such state and blocking exports of US munitions to such state.
- Division N is the No Technology for Terror Act, which adopts a statutory foreign direct product rule that requires a license for exports to Iran or involving the Government of Iran. The statutory rule is broader than the existing Iran foreign direct product rule in 15 CFR 734.9. The rule is effective immediately and sunsets in 7 years. An exception is provided for humanitarian aid and communications devices (which is similar to, but not the same as, a License Exception CCD).
- Division O is the Strengthening Tools to Counter the Use of Human Shields Act, which strengthens existing sanctions against persons who use civilians as human shields. It also empowers the President to deny visas and block the property of any foreign person who the Secretary of the Treasury determines is responsible for, or complicit in, significant cyber-enabled activities that threaten the United States. The Secretary of the Treasury is also required to make a determination with respect to any foreign person requested by an appropriate committee of Congress. Finally, the Act directs the President to impose sanctions on any foreign person that the President determines has threatened a current or former Federal official with violence. The Act’s sanctions are denial of visas and blocking of property.
- Division P is the Illicit Captagon Trafficking Suppression Act of 2023. This Act directs the President to issue denial of visa and blocking of property sanctions on any foreign person who the President determines is engaged in, or is attempting to engage in, activities that materially contribute to the trafficking or production of the illicit drug captagon or knowingly receives any property or interest in property derived from proceeds of activities related to captagon. The President is specifically directed to report whether certain named persons from the Government of Syria and Hizballah meet the sanction criteria.

- Division Q is the End Financing for Hamas and State Sponsors of Terrorism Act. This Act directs the Secretary of the Treasury to submit a report within 180 days on the major sources of financing to Hamas and US efforts to disrupt that financing. The Secretary is also directed to coordinate with G7 countries.
- Division R is the Holding Iranian Leaders Accountable Act of 2024. This Act directs the President to submit a report with 180 days of enactment, and every two years thereafter, describing the assets directly or indirectly controlled by a list of Iranian, Hamas, and Hizballah related officials and the non-Iranian financial institutions in which those assets are held. The Secretary of the Treasury is directed to take actions within 90 days of the submittal of the report require the closure of any accounts in US financial institutions and seek closure of accounts in foreign financial institutions.
- Division S is the Iran-China Energy Sanctions Act of 2023. This Act amends the Iranian sanctions imposed in the 2012 National Defense Authorization Act (22 USC 8513a) to apply the sanctions to (1) financial institutions in China that engage in any transactions involving the purchase of petroleum or petroleum products from Iran or (2) any foreign financial institution that involve the purchase of Iranian UAVs, UAV parts or related systems. The President must determine within 180 days of enactment and annually thereafter whether any Chinese or foreign financial institution meets the requirements of the new provision.
- Division T waives provisions of the Budget Act to make this bill emergency supplemental funding which does not require pay as you go offsets.

US Congress Advances New Bills to Reform Customs *De Minimis* Exemption

In early April 2024, members of Congress introduced three new bills that propose various reforms to the increasingly controversial US customs *de minimis* entry process:

- H.R.7979: End China's *De Minimis* Abuse Act,
- H.R.8059: US Foreign Trade Zone Parity Act, and
- S.4082: Ensure Accountability in *De Minimis* Act of 2024.

The House Ways and Means Committee approved H.R.7979 just a few days after its introduction, opening the way to a vote on the House floor.

The *de minimis* entry process under Section 321 of the Tariff Act of 1930 allows an importer to bring shipments into the United States without filing formal entry paperwork or paying taxes and duties so long as the total daily value of importer's entries is below \$800. *De minimis* entry gives Americans access to a wider variety of goods, facilitates trade, supports the e-commerce industry, and decreases inspection burdens for US Customs and Border Protection (CBP). Congress raised the *de minimis* level from \$200 to \$800 in the bipartisan Trade Facilitation and Trade Enforcement Act (TFTEA) of 2015, making the US *de minimis* among the highest in the world. Despite those advantages and past bipartisan support, the system has recently invited controversy among groups seeking stronger customs law enforcement, industries that have suddenly found themselves competing with a surge of low-cost cross-border e-commerce, and those seeking to reduce US trade relations with China (the source of about half of *de minimis* entries).

In 2023, other members of Congress submitted multiple bipartisan bills that would substantially limit use of *de minimis* and increase regulatory scrutiny of shipments. Though popular among some, those bills have not yet moved forward. The new set of bills introduced in April are more moderate proposals that would introduce lighter-touch or more narrowly targeted changes, setting up a future debate on how much the United States should change the system.

H.R.7979: End China's *De Minimis* Abuse Act

The End China's *De Minimis* Abuse Act would establish new exceptions to *de minimis* entry for merchandise subject to certain tariff actions.²⁷ The changes will reduce the share of low value imports from certain countries that qualify for *de minimis* entry but would make few other changes to the *de minimis* entry process.

Those new exceptions would exclude from *de minimis* entry any article that would be subject to import restrictions under Section 201 (safeguards), Section 301, or Section 232 actions. Such articles would have to enter through standard channels and would also become subject to any tariffs imposed under those Section 201, Section 301, or Section 232 actions. The bill also includes new civil penalties for violating *de minimis* entry rules, increasing compliance risks for importers.

Under current law, goods subject to absolute or tariff-rate quotas, antidumping and countervailing duties, and Internal Revenue Code excise taxes already do not qualify for *de minimis* and must pay any applicable taxes and fees, but there is no such disqualification for goods subject to these other trade actions. The bill's supporters argue the change would align *de minimis* policy for all special trade restrictions.

These changes are mostly aimed at China. A large share of consumer merchandise imported from China are currently subject to Section 301 tariffs, but shipments of these products under the *de minimis* level avoid those tariffs. The bill's sponsors estimate that about half of *de minimis* entries from China are in the tariff codes subject to 301 tariffs. Under the bill, those entries would be disqualified from *de minimis* entry and be subjected to those tariffs.

Rep. Greg Murphy (R-NC) introduced the bill on April 15, 2024, with Rep. Jeff Duncan (R-NC) cosponsoring. The House Ways and Means Committee quickly approved the bill by a vote of 24 to 18 along partisan lines during an April 17, 2024 markup session.²⁸ To become law, the bill will now have to pass a vote in the full House, pass the Senate, and then be signed into law by the president. Broad opposition among Democrats makes it unlikely that the bill can succeed in the current legislative session.

Though significant, the proposal does not go as far as some of the *de minimis* program's opponents want. Opponents of *de minimis* have been calling for more significant reform and may oppose this relatively moderate approach, which they worry will drain energy from the more extreme measures they are pursuing. Rep. Earl Blumenauer (D-OR) criticized the bill for not going far enough. During the Committee's review of the bill, he proposed an amendment that would have banned all Chinese-origin shipments from qualifying for *de minimis* treatment, which failed by a vote of 18 in support to 24 opposed. Rep. Blumenauer has been a leader of efforts among Democrats to reform the customs *de minimis*, and the party (including in the Senate) would be unlikely to back a bill that does not have his support.

H.R.8059: US Foreign Trade Zone Parity Act

The US Foreign Trade Zone Parity Act would allow entries from US Free Trade Zones (FTZs) into the United States customs zone to claim the *de minimis* exception.²⁹ This change, in effect, would allow companies to establish distribution centers in US FTZs and sell merchandise through e-commerce channels into the US market using *de minimis* entry instead of formal entry.

²⁷ H.R.7979 - End China's *De Minimis* Abuse Act, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/7979>.

²⁸ The House Ways and Means Committee held a markup session for bills addressing Republican trade policy priorities on April 17, 2024, which included this bill. A full list of the bills considered can be found on the Committee website at "Markup of H.R. 5179, H.R. 7981, H.R. 7979, H.R. 7983, H.R. 7980, and H.R. 7986," accessible here: <https://waysandmeans.house.gov/event/markup-of-h-r-5179-h-r-7981-h-r-7979-h-r-7983-h-r-7980-and-h-r-7986/>.

²⁹ H.R.8059 - US Foreign Trade Zone Parity Act, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/8059>.

FTZs are areas in the United States where domestic activities involving foreign (and domestic) merchandise can take place before formal US customs entry. Unlike customs entries that come directly from abroad, low-value retail entries from FTZs cannot qualify for *de minimis* treatment. The difference in treatment results from a technical difference between “import” and “entry” in US customs law, which prevents e-commerce distributors from operating from a US FTZ.³⁰ The differing treatment gives distribution centers outside the United States (such as in China or over US borders in Canada and Mexico) an advantage in shipping *de minimis* retail merchandise to US customers.

Retailers with distribution operations in US FTZs have long sought this reform to improve their competitiveness. The bill’s supporters estimate this difference in *de minimis* application can result in up to a 60% cost disadvantage for US FTZ-based distributors relative to distributors based in other countries. The National Association of Foreign-Trade Zones and retailers like REI and Columbia Sportswear have endorsed the bill.

Brad Wenstrup (R-OH), Carol Miller (R-WV), Brian Fitzpatrick (R-PA), Mike Carey (R-OH), Ruben Gallego (R-AZ), and Lou Correa (R-CA), a bipartisan group of Ways and Means Committee members, introduced the bill on April 17, 2024. It has been referred to the Ways and Means Committee for consideration. Though the proposal does not contribute to addressing critics’ concerns about customs law enforcement, it should still be compatible with any of the other *de minimis* reform proposals currently under consideration. The sponsors argue the proposal would complement other efforts to restrict China’s use of *de minimis* entry because it would put US FTZ-based retail distribution centers on a level playing field with China-based retail distribution centers.

S.4082: Ensure Accountability in *De Minimis* Act of 2024

The Ensure Accountability in *De Minimis* Act of 2024 would tighten the *de minimis* regulations by limiting the entities that can enter *de minimis* shipments, introducing new penalties for violations, increasing data collection on shipments, and establishing new oversight processes.³¹ Senators Mike Braun (R-IN) and Tammy Baldwin (D-WI) introduced the bipartisan bill on April 9, 2024, at which point it was referred to the Senate Committee on Finance for review. The four actions are summarized below:

- Limitations on persons authorized to enter articles through the *de minimis*: The bill would limit what kinds of shipments can qualify for *de minimis* entry, requiring that eligible shipments must enter through either international mail or by the consignee, owner, or purchaser (or their designated licensed customs broker).
- Expanding penalties for fraud, gross negligence, and negligence: The bill would expand and increase civil penalties for fraud, gross negligence, and negligence-based violations of import rules, increasing compliance risks for importers.
- Enhancing data collection on *de minimis* entries: The bill would require CBP to promulgate regulations within 18 months of the bill’s adoption that would establish new documentation requirements for *de minimis* entries. The purpose of these new requirements would be to more effectively detect goods made with forced labor, counterfeit goods, illegal drugs, and other items prohibited from entering the United States. The bill does not prescribe what specifically the new requirements should be, deferring the details to CBP. CBP is already developing a new regulation to enhance data monitoring for *de minimis* shipments, with which this bill’s directions appear to align. The bill would also require CBP to establish civil penalties for violating these documentation requirements.
- Requiring new oversight reports on illegal products detected in the *de minimis* channel: CBP would have to provide Congress with an annual report describing *de minimis* entries, seizures of illegal products, and the origin

³⁰ See CBP Headquarters Rulings H275567, accessible here: <https://rulings.cbp.gov/ruling/H275567>, and H282601, accessible here: <https://rulings.cbp.gov/ruling/H282601>.

³¹ S.4082 - Ensure Accountability in *De Minimis* Act of 2024, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/senate-bill/4082>.

and valuation of those illegal products. The Government Accountability Office would also provide a report to Congress on any shortcomings in enforcement of the regulations. Some of this information is already available on the CBP website,³² but the bill's authors are likely hoping their approach will make it easier for Congress to review the information and potentially consider additional legislative action.

House Introduces Bills on Critical Minerals and Electric Vehicles Trade

The House of Representatives' Ways and Means Committee held a hearing to review newly introduced trade policy legislation on April 17, 2024, and voted to approve a series of bills that cover Republican policy priorities.³³ Among these bills were three measures that would affect electric vehicle supply chains and access to Inflation Reduction Act (IRA) subsidies if the government passes them into law:

- H.R. 7981: Stop China's Exploitation of Congolese Children and Adult Forced Labor through Cobalt Mining Act;
- H.R. 7980: End Chinese Dominance of Electric Vehicles in America Act of 2024; and
- H.R. 7983: Stop Executive Overreach on Trade Agreements Act.

To become law, these bills still need to pass a full vote on the floor of the House of Representatives, pass the Senate, and then be signed into law by the president (or pass Congress by a two-thirds majority to override the president's veto, should the president oppose the bill). The short amount of time left on the legislative calendar for the 118th Congress and strong partisan divisions may make it difficult for legislation to pass in the rest of 2024, though there could still be opportunities to roll bills like these together with other "must-pass" legislation. Regardless of their potential for success during the current session of Congress, the bills are a useful signal of how Republicans might limit IRA subsidies and expand trade restrictions if they win the November 2024 elections.

H.R. 7981: Stop China's Exploitation of Congolese Children and Adult Forced Labor through Cobalt Mining Act

H.R. 7981, the Stop China's Exploitation of Congolese Children and Adult Forced Labor through Cobalt Mining Act, is intended to increase US customs scrutiny for imports of cobalt and products containing cobalt that are produced with forced labor in the Democratic Republic of the Congo (DRC).³⁴ Rep. Chris Smith (R-NJ) introduced H.R. 7981 on April 15, 2024. Should the bill become law, all those in the supply chain for products containing cobalt (miners, processors, manufacturers, and importers) should expect increased enforcement attention in the United States, where Section 307 of the Tariff Act of 1930 forbids imports of products made using forced or child labor.

Content of H.R. 7981

H.R. 7981 would require the US Forced Labor Enforcement Task Force (FLETF) to investigate cobalt imports from the DRC and prepare a strategy targeting the sector for heightened enforcement of the current Section 307 import prohibition. Importation of products mined, produced, or manufactured wholly or in part by forced or child labor is illegal under Section 307 of the Tariff Act of 1930. The US government has documented child labor in the DRC's cobalt (heterogenite), copper, and diamond mining industries, and both child labor and forced labor in the gold, tantalum ore (coltan), tin ore (cassiterite), and tungsten ore (wolframite) in its global labor rights reports.³⁵ Despite

³² "Trade Statistics," CBP, accessible here: <https://www.cbp.gov/newsroom/stats/trade>.

³³ "Markup of H.R. 5179, H.R. 7981, H.R. 7979, H.R. 7983, H.R. 7980, and H.R. 7986," April 17, 2024, accessible here: <https://waysandmeans.house.gov/event/markup-of-h-r-5179-h-r-7981-h-r-7979-h-r-7983-h-r-7980-and-h-r-7986/>.

³⁴ H.R. 7981 – Stop China's Exploitation of Congolese Children and Adult Forced Labor through Cobalt Mining Act, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/7981>.

³⁵ "List of Goods Produced by Child Labor or Forced Labor," US Department of Labor, 2020 (latest edition), accessible here: <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>; and "Findings on the Worst Forms of Child Labor - Democratic Republic of the

that level of scrutiny, US Customs and Border Protection (CBP) has to date issued only one Section 307 withhold release order targeting imports from the DRC.³⁶ The Representatives supporting the bill have said they are frustrated with CBP's lack of enforcement action – especially with regards to cobalt.

The FLETF investigation mandated by the bill would include a strategy for enforcing Section 307 against imports of cobalt mined by forced labor in the DRC, to prevent products that contain cobalt from the DRC from entering the United States from third countries, and to prevent the re-importation of cobalt that had previously been denied entry. This strategy, according to the bill, would include measures that can trace the origin of goods to improve supply chain transparency and ensure cobalt mined by forced labor does not enter the United States. Similar to the Uyghur Forced Labor Prevention Act (UFLPA) Entity List, the strategy would also include a list of “entities in the DRC that potentially mine or process cobalt using forced labor” and a list of downstream products that include DRC-origin cobalt. The listed products would be priority sectors for Section 307 enforcement, according to the bill. The bill does not explain what enforcement actions companies on the list of entities may face. The FLETF would have to regularly update these lists.

The report would be the start of an ongoing oversight process, in which Congress would examine enforcement efforts more closely and the FLETF would keep Congress informed about the resources CBP needs for effective Section 307 enforcement. This would presumably include resources for enforcement of Section 307 Withhold Release Orders for specific producers.

The bill's direction for the FLETF to develop a Section 307 strategy specifically for cobalt from the DRC would encourage CBP to increase scrutiny of supply chains that trace back to the country's mining industry, presumably heighten section 307 enforcement on those goods, and possibly lead to additional legislation.

Development of the bill

This is the third proposal Rep. Smith has introduced in the past year to increase scrutiny of alleged labor abuses in the DRC's mining sector.³⁷ The previous versions of the bill were more expansive, proposing to apply rebuttable presumptions (modeled after the UFLPA) that DRC-origin cobalt is produced with forced labor and would therefore be automatically banned from entering the United States under Section 307. The first bill would have applied this rebuttable presumption to the whole of the DRC mining sector, while the second version would have applied it only to DRC-origin cobalt refined in China. Unlike H.R. 7981, neither of these previous bills has yet passed committee.

The third bill does not go as far in explicitly expanding enforcement authorities as the first two and, in particular, does not contain a rebuttable presumption. During H.R. 7981's markup, some Democrats on the committee criticized it for being too weak, calling it a “messaging bill.” Rep. Bill Pascrell (D-NJ) proposed an amendment that would have added a rebuttable presumption back to the bill, but the amendment failed in a 17 to 24 vote. Further debates and amendments to the bill are likely as it makes its way through Congress, which may carry over into the next session under a different legislative majority. More restrictive provisions, such as those proposed in Rep. Pascrell's amendment and those in Rep. Smith's previous proposed bills, could still resurface as the bill makes its way through the legislative process.

H.R. 7980: End Chinese Dominance of Electric Vehicles in America Act of 2024

Congo,” US Department of Labor, 2022 (latest edition), accessible here: <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/congo-democratic-republic-drc>.

³⁶ “Withhold Release Orders and Findings List,” CBP, accessible here: <https://www.cbp.gov/trade/forced-labor/withhold-release-orders-and-findings>.

³⁷ H.R.4443 - Countering China's Exploitation of Strategic Metals and Minerals and Child and Forced Labor in the Democratic Republic of the Congo Act, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bills/118th-congress/house-bill/4443>; and H.R.6909 - COBALT Supply Chain Act, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bills/118th-congress/house-bill/6909>.

H.R. 7980, the End Chinese Dominance of Electric Vehicles in America Act,³⁸ would expand the IRA's Foreign Entity of Concern (FEOC)³⁹ prohibition on qualification for US electric vehicle subsidies by entities linked to China and other US adversaries. Rep. Carol Miller (R-WV) introduced the bill on April 15, 2024, whereupon it was referred to the Ways and Means Committee.

Background on the IRA's FEOC restriction

The IRA amended various sections of the Internal Revenue Code to incentivize clean vehicle and clean energy production and demand. The amended Section 30D clean vehicle tax credit in particular contains extensive requirements for the vehicle, the battery, battery components, and battery critical minerals to be assembled in certain countries.⁴⁰ Among these content requirements is a ban on any battery components or critical minerals produced by an FEOC.⁴¹ An FEOC includes, among other things, any foreign entity that is "owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country that is a covered nation (*i.e.*, China, Russia, Iran or North Korea⁴²)." For the Battery Component Requirement, tax credits will be prohibited if the battery was manufactured or assembled by an FEOC. This prohibition is effective for vehicles placed into service after December 31, 2023. For the Critical Minerals Requirement, the credit will be prohibited if the battery contains any critical minerals that are "extracted, processed, or recycled" by a "foreign entity of concern," which will take effect after December 31, 2024. The industry is now relying on draft rules to guide compliance with these standards, which the Department of Energy (DOE) and the Department of the Treasury (Treasury) issued in December 2023 (publication of the final rules appears to be imminent).⁴³

Changes proposed by H.R. 7980

H.R. 7980 would tighten the Section 30D FEOC restriction with amendments that establish a new definition of prohibited foreign entity and that broaden the scope of the inputs and commercial relationships that are subject to the restriction.

- First, the bill would replace the restriction on FEOC with a restriction on "prohibited foreign entities," which is defined more broadly than FEOC. Prohibited foreign entities would be defined to include (i) the original meaning of FEOC; (ii) "any entity with respect to which the government of a covered nation has the right or power (directly or indirectly) to appoint or approve the appointment of a covered officer;" and (iii) any entity for which 25% or more of the capital or profits interest is owned either directly or indirectly in aggregate by a covered nation or an FEOC; a citizen, national, or resident of a covered nation; or an entity organized under the laws of a covered nation. Modifying the Section 30D FEOC restriction in this way would significantly expand its coverage, aligning it with the CHIPS and Science Act's stricter FEOC guardrails rule.⁴⁴

³⁸ H.R.7980 - End Chinese Dominance of Electric Vehicles in America Act of 2024, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/7980>.

³⁹ Internal Revenue Code Section 30D(d)(7), accessible here: [https://uscode.house.gov/view.xhtml?req=\(title:26%20section:30D%20edition:prelim\)](https://uscode.house.gov/view.xhtml?req=(title:26%20section:30D%20edition:prelim)).

⁴⁰ "Section 30D New Clean Vehicle Credit," 88 FR 23370 (April 17, 2023), accessible here: <https://www.federalregister.gov/documents/2023/04/17/2023-06822/section-30d-new-clean-vehicle-credit>.

⁴¹ As amended by section 13401(e) of the IRA, section 30D(e)(7) of the Internal Revenue Code.

⁴² The IJJA definition of "covered nation" cites section 4873(d)(2) of title 10 (renumbered from section 2533c(d)), which lists China, Russia, Iran, and North Korea; accessible here: <https://www.govinfo.gov/content/pkg/USCODE-2022-title10/html/USCODE-2022-title10-subtitleA-partV-subpartI-chap385-subchapterIII.htm>.

⁴³ "Interpretation of Foreign Entity of Concern," 88 FR 84082 (December 4, 2023), accessible here: <https://www.federalregister.gov/documents/2023/12/04/2023-26479/interpretation-of-foreign-entity-of-concern>; and "Section 30D Excluded Entities," 88 FR 84098 (December 4, 2023), accessible here: <https://www.federalregister.gov/documents/2023/12/04/2023-26513/section-30d-excluded-entities>.

⁴⁴ 15 CFR Section 231 (Guardrails Rule), accessible here: <https://www.ecfr.gov/current/title-15/subtitle-B/chapter-II/subchapter-C/part-231>.

- Second, the bill would expand the scope of material inputs and activities from which these “prohibited foreign entities” are prohibited. Currently the Section 30D rule bans “any of the applicable critical minerals contained in the battery” that were extracted, processed, or recycled by FEOCs after December 31, 2024, and “any of the components contained in the battery” from being manufactured or assembled by an FEOC after December 31, 2023. H.R. 7980 would replace this with a blanket ban on “any of the components contained in the drive battery or any material contained in such a component was extracted, processed, recycled, manufactured, or assembled by a prohibited foreign entity.” The bill would then establish a second restriction, banning battery manufacturers from using “any process attributable to any licensing, royalty, service, or similar agreement with a prohibited foreign entity the estimated total contract cost, including variable, contingent, or sales-based payments, of which exceeds \$5,000,000,” intending to ban the use of Chinese intellectual property in Section 30D-qualifying electric vehicles.

The bill does not contain phase in periods for these restrictions. They would apply immediately to any vehicles placed into service after the bill’s enactment into law.

The Ways and Means Committee approved the bill along partisan lines with 22 Republicans voting in favor and 18 Democrats voting against. Bills such as this are unlikely to succeed in the current legislative session, given the partisan division. Even so, measures to substantially broaden the coverage of the FEOC restriction such as this are likely to be an option Republicans would consider if they gain control over either the legislative or executive branches in the November 2024 elections.

H.R. 7983: Stop Executive Overreach on Trade Agreements Act

H.R. 7983, the Stop Executive Overreach on Trade Agreements Act, would stop the Biden administration from using critical mineral trade agreements to satisfy the free trade agreement (FTA) content standard in the Section 30D tax credit.⁴⁵ The bill would define “free trade agreement” in law as a trade agreement “that (1) is approved by Congress and (2) eliminates restrictions on substantially all trade with the partner.”

The Biden administration has been designating new critical mineral trade agreements as FTAs under Section 30D, allowing US allies that do not have traditional FTAs to participate in the subsidies program. If Congress were to define FTA in the way this bill proposes, it would effectively exclude the Biden administration’s critical mineral trade agreements from qualifying partner country’s exporters for the Section 30D tax credit. Whether the bill would apply retroactively to the US-Japan critical minerals agreement, which has already been implemented into the Section 30D regulation as a qualifying FTA, is unclear.

Rep. Michelle Fischbach (R-MN) introduced H.R. 7983 on April 15, 2024. It passed the Ways and Means Committee along partisan lines 25 to 17 with all Republicans voting in favor and all Democrats opposed. It is unlikely that the bill will successfully pass into law since it would need significant support among Democrats to do so. That said, like H.R. 7980, H.R. 7983 is a useful signal of what Republicans may do if they win the November elections.

Background on the IRA and FTAs

The IRA restructured the new clean vehicle subsidy under Internal Revenue Code Section 30D, removing previous volume caps on qualifying vehicle sales but imposing a variety of new local content, retail price, and income-based restrictions. The amended Section 30D provides a credit of up to \$7,500 per qualifying new clean vehicle purchased, consisting of \$3,750 that is conditional on the subject vehicle meeting certain critical minerals local content requirements, and \$3,750 that is conditional on the subject vehicle meeting certain battery components local content requirements. To meet the critical minerals requirement specifically, a share of the critical minerals contained in the

⁴⁵ H.R.7983 - Stop Executive Overreach on Trade Agreements, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/7983>.

vehicle's battery must be "extracted or processed in the United States, or in any country with which the United States has a free trade agreement in effect," or be "recycled in North America." The unclear meaning of FTA in this requirement is the point of dispute between the Biden administration and Congress, as Congress did not define FTA in the law.

Treasury's Section 30D proposed guidance on the critical mineral and battery component requirements included a process that would allow the executive branch to negotiate new critical mineral-focused trade agreements to satisfy FTA standard. Specifically, Proposed Section 1.30D-3(c)(7) defines FTA in a way that covers countries with which the United States has comprehensive free trade agreement in place and that also allows Treasury to designate other countries with which the United States has non-comprehensive trade agreements. These non-comprehensive agreements must meet certain criteria described in Proposed Section 1.30D-3(c)(7)(i). The proposed rule designates Japan as fulfilling the critical minerals rule under this second criteria.

US-Japan Critical Minerals Agreement

Japan became the first country to sign a critical minerals trade agreement with the United States on March 28, 2023, a few days before Treasury circulated the proposed rule.⁴⁶ The agreement mainly seeks to allow electric vehicles made using battery inputs sourced from Japan to qualify for the Section 30D tax credit. USTR's web page on FTAs was updated to include the agreement with Japan⁴⁷ while Japan's official statement notes that the agreement is envisaged to "promote the goals of the Inflation Reduction Act."⁴⁸ The Agreement does not impose any new obligations on the parties, simply affirming existing legal obligations under WTO law, and then provides various aspirational commitments that the parties shall cooperate, confer, or aspire to act to build a sustainable supply chain for these critical minerals.

Other prospective agreements

On March 10, 2023, the Biden administration announced it was also negotiating such an agreement with the EU. Among other commitments, the Biden Administration preliminarily committed to treating EU-extracted and processed minerals as covered by the IRA Section 30D clean vehicle tax credits. The leaders' statement said this critical mineral agreement would expand "access to sources of critical minerals that are sustainable, trusted, and free of labor abuses" and "reduce unwanted strategic dependencies in these supply chains, and to ensure that they are diversified and developed with trusted partners." As of April 2024, the negotiations between the EU and United States are still ongoing. The United States has also reportedly begun discussions with the UK for a critical mineral agreement, which is also incomplete. Other countries, including Argentina, the Philippines, and Indonesia have proposed negotiations, but there is no sign that the United States has begun negotiations with those countries.

Treasury's plan has attracted opposition from some members of Congress. Shortly after suggesting the Biden administration was considering such actions, Treasury Secretary Janet Yellen faced pushback from members of both parties during testimony in the House of Representatives on March 10, 2023. The Representatives expressed frustration with both the administration's intent to adopt an unusually broad definition of "free trade agreement" and for treating the potential critical mineral agreements as executive agreements, which would sideline Congress from its traditional role in overseeing and approving FTAs. Senate Finance Committee Chair Ron Wyden (D-OR) also criticized the move in a statement on March 13, 2023, challenging the administration's "decision to ignore Congress and go it alone when it comes to trade deals." This unexpectedly strong opposition – including from members of the

⁴⁶ "Agreement Between The Government Of The United States Of America And The Government Of Japan On Strengthening Critical Minerals Supply Chains," accessible here: <https://ustr.gov/sites/default/files/2023-03/US%20Japan%20Critical%20Minerals%20Agreement%202023%2003%2028.pdf>.

⁴⁷ See USTR, "Free Trade Agreements," accessible here: <https://ustr.gov/trade-agreements/free-trade-agreements>.

⁴⁸ Ministry of Foreign Affairs of Japan, "Signing of the Japan-U.S. Critical Minerals Agreement (CMA)," Press Release, March 28, 2023, accessible here: https://www.mofa.go.jp/press/release/press1e_000400.html.

president's own party – may have eventually motivated President Biden to back away from negotiating additional critical mineral trade agreements, which would explain why the EU negotiations are still unresolved.

Trade Actions

No developments.

Trade Agreements

TTC

US and EU Hold Last TTC Ministerial Before Elections

The US-EU Trade and Technology Council (TTC) met for its sixth and potentially last ministerial meeting on April 4 and 5, 2024 in Leuven, Belgium. US Trade Representative Katherine Tai, Secretary of Commerce Gina Raimondo, and Secretary of State Antony Blinken attended for the United States, and the European Commission's Executive Vice Presidents Valdis Dombrovskis and Margrethe Vestager attended for the EU.

With the end of the TTC process on the parties' minds, the joint statement highlights the accomplishments of the TTC and argues for continued transatlantic cooperation. Looking back on the TTC's work, the ministers argued the meetings have helped restore trust and strengthen the bilateral relationship. The joint statement stresses the importance of the TTC for managing emerging technology issues, responding to Russia's invasion of Ukraine, and coordinating on economic pressures from non-market economies.

The TTC's final joint statement does not, however, announce any major breakthroughs on the EU's market access priorities, the critical minerals trade agreement, the Global Arrangement on Sustainable Steel and Aluminum, or the Biden administration's efforts to convince the EU to become more deeply involved in the United States' trade disputes with China.

Key Outcomes of the TTC

The ministers agreed to a variety of technical-level initiatives that will continue past the ministerial, which are mostly related to cooperation on emerging technology issues and supply chain security. Major points from the ministerial and joint statement are summarized below.⁴⁹

- **Digital invoicing interoperability:** The joint statement announced progress on one notable trade facilitation effort - aligning technical standards for electronic invoicing.⁵⁰ The governments expect this work to reduce the administrative costs of trading between the two economies.
- **Transatlantic Trade and Labor Dialogue (TALD):** The April 4 TALD dialogue focused on trade and labor interests around the green energy transition, though no significant announcements were made. At the May 2023 TALD, the business and labor participants issued a joint statement on labor rights policy.⁵¹ The US and EU government participants have not yet endorsed the proposals or followed up with the business and labor groups participating in TALD on next steps.
- **Economic security and China:** Like previous statements, the parties reaffirmed their "shared concerns about the challenges posed to our economic security by, among other issues, economic coercion, the weaponisation of economic dependencies, and the use of non-market policies and practices by third countries." The United States has wanted to use the TTC process to pressure the EU into adopting a more publicly confrontational approach to China's international trade practices. EU politicians have pushed back on the US demands, making this one of the more contentious points of the negotiations. Though the United States and the EU were able to use the TTC

⁴⁹ Joint Statement EU-US Trade and Technology Council of 4-5 April 2024 in Leuven, Belgium, accessible here: https://ec.europa.eu/commission/presscorner/detail/en/statement_24_1828.

⁵⁰ Annex 1 - Joint Declaration On Enhancing eInvoicing Interoperability Between The EU And The United States, accessible here: <https://circabc.europa.eu/ui/group/09242a36-a438-40fd-a7af-fe32e36cbd0e/library/ccbb1918-3e17-4cf9-bc32-787804515f13/details?download=true>.

⁵¹ US-EU Tripartite Trade and Labor Dialogue (TALD) Social Partner Joint Statement on Transatlantic Forced Labor Trade Strategy, May 2023, accessible here: <https://ustr.gov/sites/default/files/2023-05/TALD%20Joint%20Statement%20on%20Forced%20Labor%20-%20FINAL.pdf>.

to advance work on coordinating export controls, semiconductor subsidies, and other economic security policies, commitments likely fell short of US goals. The joint statement notes broad concerns with non-market economic practices and raises the need for strengthened export controls in a few of the emerging technology fields the TTC is exploring (such as biotechnology and medical devices) but avoids most direct references to China.

- **Trade in green transition products:** The parties pledged to deepen cooperation on green energy supply chain issues and market development through the Transatlantic Initiative on Sustainable Trade (TIST). However, the parties failed to agree to a conformity assessment agreement, which would have helped facilitate trade in products necessary for the green transition. Industry has been pushing for the agreement, arguing it would lower trading costs, but the joint statement only mentions it as one of the “potential avenues of cooperation” TIST will explore.
- **EU-US Clean Energy Incentives Dialogue:** The parties agreed to launch a pilot program to share information on green energy incentive programs. The pilot program will focus on one sector, which the statement does not name. A proposal under discussion by the parties to establish a more formal set of shared principles for clean energy incentives transparency was not in the final joint statement.
- **Critical minerals:** According to the joint statement, the parties are continuing to negotiate a potential critical minerals trade agreement. If completed, the agreement would give EU manufacturers access to the critical minerals-based portion of the US Section 30D electric vehicle subsidy. The United States agreed to a similar arrangement with Japan in March 2023, but the negotiations with the EU appear to be at an impasse over USTR demands for new labor rights commitments. Though the critical minerals agreement has not progressed, US-EU cooperation in the Minerals Security Partnership (MSP) is continuing. Under the newly launched MSP Forum, MSP members met with senior officials from resource-rich developing countries to discuss opportunities to develop new mineral production sources.⁵² Senior officials from Ukraine, Namibia, Kazakhstan, and Uzbekistan joined the MSP Forum in person, while other countries attended remotely.
- **Quantum technologies:** The parties stressed the importance of cooperation to permit rapid action against potential threats that a cryptanalytically-relevant quantum computer would bring. EU-US dialogue on this matter is taking place under the framework of the Quantum Task Force, which is working to develop unified benchmarks and international standards, harmonizing efforts in quantum technology R&D.
- **AI cooperation:** Both sides are working on several cooperation tracks for AI development and regulation, and the TTC issued a report entitled “AI for the Public Good” to summarize areas of cooperation.⁵³ The parties formed a new cooperation agreement for a dialogue between the US AI Safety Institute and the EU AI Office, which would continue the regular discussions the offices have already established through the TTC. The TTC also continued advancing the work of the joint roadmap for AI risk management,⁵⁴ which includes shared terminologies and taxonomies (which the latest meeting updated⁵⁵) and seeks to produce a “common repository of metrics for measuring AI trustworthiness and risk management methods.” The United States announced a

⁵² EU and international partners agree to expand cooperation on critical raw materials, accessible here: https://ec.europa.eu/commission/presscorner/detail/en/IP_24_1807.

⁵³ AI for Public Good: EU-US Research Alliance in AI for the Public Good, accessible here: <https://digital-strategy.ec.europa.eu/en/library/ai-public-good-eu-us-research-alliance-ai-public-good>.

⁵⁴ TTC Joint Roadmap for Trustworthy AI and Risk Management, accessible here: <https://digital-strategy.ec.europa.eu/en/library/ttc-joint-roadmap-trustworthy-ai-and-risk-management>.

⁵⁵ EU-US Terminology and Taxonomy for Artificial Intelligence - Second Edition, accessible here: <https://digital-strategy.ec.europa.eu/en/library/eu-us-terminology-and-taxonomy-artificial-intelligence-second-edition>.

similar partnership on AI development with the UK earlier in the week⁵⁶ and all parties are also continuing to work through the G7 process as well. At the concluding press conference, officials said they hoped this early collaboration could eventually lead to more tangible outcomes.

- **Semiconductor cooperation:** The TTC extended two administrative agreements to enable coordination between the economies on semiconductor subsidies and an early warning system for supply chain disruptions for three more years. The joint statement notes the economies will leverage these cooperation platforms to “establish synergies between our support for investments in the semiconductor sector.” The ministers also announced they are cooperating to find alternatives to per- and polyfluoroalkyl substances (PFAS) used in semiconductors, though the joint statement included no clear commitments on the matter.
- **Legacy semiconductor (or mature node) manufacturing concerns:** New actions are also emerging on legacy semiconductors, a subsector of the industry that the United States and EU are concerned is increasingly becoming controlled by China. The joint statement highlighted concerns about unfair trade practices in the legacy semiconductor subsidies, a nod towards China’s efforts to expand its manufacturing role in the sector (though the statement refrains from naming China specifically). The joint statement notes these practices could lead to market distortions and create excessive dependencies. Speaking at the press conference, Secretary Raimondo said: “We know that based on China's own reporting, about 60 percent of all new [...] legacy chips coming to the market in the next handful of years will be produced by China [...], and we know there's a massive subsidization of that industry on behalf of the Chinese government, which could lead to huge market distortion.” The EU said it would perform a voluntary survey of the industry by the early summer, which will ask comparable questions to the survey the United States has already launched.⁵⁷ The governments will then reconvene – possibly with other likeminded countries – to discuss policy options.
- **6G network development:** The parties announced a new joint vision for 6G development, which the governments say will help ensure “the development and deployment of 6G technology align with shared principles and values.”⁵⁸ Seeking to continue this work, the parties have concluded an Administrative Arrangement for cooperation between the United States National Science Foundation (NSF) and the Directorate General for Communications Networks, Content, and Technology (DG Connect).
- **Standards for Critical and Emerging Technologies:** The parties reaffirmed their interest in the creation of new technical standards for Critical and Emerging Technologies. Specifically, future efforts will focus on cooperation for the cross-border use of digital identities and wallets.
- **Digital media platforms:** The parties published a joint recommendation on actions for online platforms to protect human rights activists⁵⁹ and agreed to facilitate data access to online platforms for researchers.⁶⁰

Continued Work and the Future of the TTC

⁵⁶ US and UK Announce Partnership on Science of AI Safety, accessible here: <https://www.commerce.gov/news/press-releases/2024/04/us-and-uk-announce-partnership-science-ai-safety>.

⁵⁷ The US Bureau of Industry and Security (BIS) launched a Section 705 assessment of the use of mature-node chips in infrastructure and defense supply chains in January 2024; announcement accessible here: <https://www.bis.doc.gov/index.php/documents/about-bis/newsroom/press-releases/3437-2024-01-18-bis-press-release-legacy-chip-survey-final/file>.

⁵⁸ Advancing 6G: A Vision for Transatlantic Collaboration, April 5, 2024, accessible here: <https://digital-strategy.ec.europa.eu/en/library/advancing-6g-vision-transatlantic-collaboration>.

⁵⁹ US-EU Recommended Actions For Online Platforms On Protecting Human Rights Defenders Online, accessible here: https://www.eeas.europa.eu/sites/default/files/documents/2024/HRD%20Guidance_Joint_Updated%20_%20Accessible%203.8.24.pdf.

⁶⁰ Status Report: Mechanisms for Researcher Access to Online Platform Data, accessible here: <https://digital-strategy.ec.europa.eu/en/library/status-report-mechanisms-researcher-access-online-platform-data>.

This will be the last TTC ministerial of this US presidential term and European Commission mandate. EU elections and expiration of the EC's mandate in June, followed by US elections in November, will make any further political-level meetings in 2024 unfeasible. Much of the discussion surrounding the TTC meeting focused on building a case for the TTC's continuation, conscious of the uncertain outcomes of the upcoming elections and likely changes in both government's senior leadership teams (regardless of the election outcome). The joint statement notes that the parties intend to use the rest of 2024 to discuss the future of the TTC with domestic stakeholders, a gesture to its uncertain future.

The joint statement's extended staff-level work programs are part of an effort to institutionalize technical cooperation, amid concerns that changes in political leadership could lead to reduced high-level exchanges between the two economies. Areas where workstreams are locked in and have momentum for continued work include the semiconductor early warning system and subsidies information sharing, AI development, digital platform interests, biotechnology, critical minerals, and 6G development.

CPTPP

Indonesia Expresses Interest in Joining CPTPP; Receives Accession Roadmap to Join OECD

Indonesian Coordinating Minister for Economic Affairs Airlangga Hartarto and the UK's Minister of State for Indo-Pacific Ann Marie Trevelyan met on April 29, 2024 to discuss ways to enhance bilateral economic and trade cooperation in London. During the meeting, Minister Hartarto conveyed Indonesia's interest in joining the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and sought the UK's support in its accession process.

According to Indonesian press reports, Minister Hartarto noted that Indonesia has completed its internal study on the benefits and costs of the CPTPP. The preliminary study suggests that approximately 70% of the domestic regulations are aligned with the CPTPP, which consists of 30 chapters. Indonesia's CPTPP interest reflects its efforts to gain access to non-traditional markets especially Canada, Chile, and Peru. Minister Trevelyan welcomed Indonesia's interest and expressed her readiness to share the UK's experience with CPTPP accession procedures.

The CPTPP, which came into force on December 30, 2018, originally comprised 11 members including Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam. The UK signed the Protocol of Accession on July 16, 2023 and became the CPTPP's 12th member and first non-founding member. The entry into force of the CPTPP for the UK is expected in the second half of 2024 once the UK and CPTPP Parties have completed their respective legislative process.¹ To date, Japan, Singapore, and Chile have ratified the UK's CPTPP accession.

Besides the CPTPP, Indonesia is applying to become a member of the Organization for Economic Cooperation and Development (OECD) of which the UK is also a member. Indonesia is first ASEAN country to submit an application to join the OECD. Indonesia received its accession roadmap from OECD Secretary-General Mathias Cormann on May 2, 2024.² The receipt of the roadmap promotes Indonesia's status as an official accession candidate. As next steps, the OECD committees will conduct technical reviews to evaluate whether Indonesia has aligned with OECD standards, best practices, and policies. Should its application be accepted, Indonesia would become the third Asian country to join the OECD after Japan and Korea.

Bilateral negotiations

USTR Publishes New Chapter Proposals for Taiwan and Kenya Trade Negotiations

On April 5, 2024, the Office of United States Trade Representative (USTR) published summaries of chapters it has recently proposed for the US-Kenya Strategic Trade and Investment Partnership (STIP) and the US-Taiwan Initiative on 21st Century Trade (US-Taiwan Initiative). The publications outline chapters proposals for agriculture, worker rights, environmental protection, and good regulatory practices (GRPs). Like other agreements the Biden administration has pursued, the STIP and US-Taiwan Initiative will not be traditional free trade agreements. USTR's proposals for the two agreements are similar, focusing on promoting GRPs and collaboration instead of clear market access commitments.

US-Kenya STIP proposed chapters

The new chapter proposals for the STIP cover GRPs, workers' rights, and additional agriculture commitments.⁶¹

- **Agriculture (second tranche):** The agriculture proposals discussed in the new summary cover additional provisions on market access, food security, sustainable production, and research cooperation. USTR also mentions that the proposed text includes “annexes on meat and cheese terms, distilled spirits, and wine,” a likely reference to protected geographical indications (GIs). USTR proposes that this chapter would include its own provisions for technical consultations to resolve any disagreements about the text, though the summary does not say what remedies would be available for cases where one the parties violates the agreement.

The first tranche of the agriculture proposals was covered in earlier negotiating rounds. In a previous public summary document, USTR stated the first tranche included commitments to regulatory transparency and cooperation, science-based decision making in health regulations, clear rules on food export restrictions, and trade facilitation.

- **GRPs:** USTR's GRP proposal is intended to increase the Kenyan government's transparency and covers various aspects of the regulatory development process. The text includes provisions encouraging Kenya to publish draft regulations in advance, provide time to consider public comments, improve regulatory decision-making processes, allow stakeholders to request changes to regulations, improve transparency about work with expert advisors, and share regulatory information on the internet.
- **Workers' rights and protections:** The proposed text focuses on requiring the parties to maintain commitments to internationally recognized labor rights and effectively enforce their labor laws. To help advance labor rights, USTR proposes to establish cooperation mechanisms to support labor rights goals, including emerging labor issues like promoting labor rights in the digital economy. The proposal also includes a mechanism for raising complaints in situations where a specific facility violates local labor laws, which appears modeled after the US-Mexico-Canada Agreement's (USMCA) facility-specific rapid-response labor mechanism (RRM). The proposal does not explain how the RRM provision would be enforced, which may be challenging for an agreement that, unlike the USMCA, does not include market access commitments.

The negotiations

The negotiations are focused on developing partnerships for promoting sustainable economic development, including improving regulatory practices, supporting African regional integration, and promoting economic inclusion for women and micro-, small-, and medium-sized enterprises (MSMEs). In recent comments, Ambassador Tai said the agreement focuses on “fundamental basics for establishing a positive investment environment” and capacity building.

⁶¹ Public Summary of Second Set of US Text Proposals, Under the US-Kenya Strategic Trade and Investment Partnership, April 2024, accessible here: <https://ustr.gov/sites/default/files/Kenya%20STIP%20second%20set%20of%20public%20summaries.pdf>.

USTR has proposed that the STIP should at first focus on (1) agriculture, (2) anticorruption, (3) digital trade, (4) environment and climate action, (5) GRPs, (6) MSMEs, (7) protecting worker's rights, (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. USTR published summarized proposals for the anticorruption; MSMEs; services domestic regulation, and the agriculture (first tranche) chapters in May 2023.⁶²

USTR published the proposal summaries midway through its latest negotiating round with Kenya, which is occurring in Washington from April 2-12, 2024.⁶³ This is the fourth negotiating round and is covering the agriculture, workers' rights, and environment chapters (USTR has not yet published a proposed environmental chapter summary). The previous negotiating round took place in Nairobi in January 2024.

US-Taiwan Initiative proposed chapters

The summaries USTR announced for the US-Taiwan Initiative cover proposed chapters for agriculture trade, environmental protection, and labor rights.⁶⁴

- **Agriculture trade:** USTR's proposal for the agriculture chapter includes provisions for improving regulatory processes, encouraging collaboration in agricultural sustainability and food security, and disciplining export restrictions. The regulatory provisions cover science-based decision-making processes, cooperation, and improving transparency for import procedures. Agriculture market access has been a point of conflict between the United States and Taiwan in the past. Disputes over the use of ractopamine in meat products prompted the United States to suspend Trade and Investment Framework Agreement (TIFA) talks several times in recent years. Tariffs and quotas are also still in place for key agriculture products, and Taiwan heavily restricts genetically modified crops.
- **Environmental protection:** The environment chapter text proposes deepening cooperation and finding joint approaches on trade and environment issues. According to USTR, the proposal contains "novel provisions to address these matters, including with regard to climate and trade, clean energy and clean technologies, environmental goods and services, more resource efficient and circular economies, digital economy and environmental sustainability, responsible business conduct, sustainable finance, and environmental justice." The summary mentions commitments to effectively enforcing environmental laws and not weakening environmental protections to attract trade and investment. Specific environmental protection provisions cover air quality; marine litter; plastic pollution; wildlife trafficking; sustainable forestry; marine species conservation; biodiversity protection; fishing subsidies and overcapacity; and illegal, unreported, and unregulated (IUU) fishing. USTR is also proposing to establish an Environment Committee to oversee the chapter's implementation.
- **Labor rights:** The proposed labor chapter would require each side to adopt and maintain internationally recognized labor rights and whistleblower protection standards. To help advance labor rights, USTR proposes to establish cooperation mechanisms to support labor rights goals, including emerging labor issues like promoting labor rights in the digital economy. The summary also highlights how USTR is specifically attempting to obtain commitments to ensuring labor rights in distant water fishing fleets and for migrant workers. Like other recent trade negotiations, USTR is also seeking to include an "entity-specific mechanism to encourage corporate

⁶² US-Kenya Strategic Trade and Investment Partnership, Summary of Texts Proposed by the US Side, May 2023, accessible here: <https://ustr.gov/sites/default/files/2023-05/U.S.-Kenya%20STIP%20Chapter%20Summaries%20May%202023.pdf>.

⁶³ United States and Kenya to Hold Fourth Negotiating Round Under the Strategic Trade and Investment Partnership, March 2024, accessible here: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2024/march/united-states-and-kenya-hold-fourth-negotiating-round-under-strategic-trade-and-investment>.

⁶⁴ US-Taiwan Initiative on 21st Century Trade, Summary of Texts Proposed by the US Side, April 2024, accessible here: <https://ustr.gov/sites/default/files/US%20Taiwan%20Initiative%20on%2021st%20Century%20Trade%20Public%20Summaries%20%E2%80%93%20Part%20Two.pdf>.

accountability in cases where an entity violates domestic labor laws.” Though the language describing the RRM proposals in USTR’s Taiwan and Kenya statements are different, sources at USTR have said the proposals are intended to be the same.

The negotiations

The US-Taiwan negotiations were split into three phases, the first of which was completed in May 2023.⁶⁵ The phase one agreement included five substantive chapters: (1) customs administration and trade facilitation, (2) GRP, (3) services domestic regulation, (4) anticorruption, and (5) MSMEs.⁶⁶ The three chapters outlined above make up phase two of the agreement. The third phase will likely include technical standards, digital trade, state-owned enterprises, and non-market policies and practices – the other topics covered in the August 2022 negotiating mandate.⁶⁷ The next negotiating round has not yet been announced.

Notably, the phase one of agreement has been the target of a confrontation between the executive branch and Congress over trade negotiating authorities. In July 2023, Congress unanimously passed the United States-Taiwan Initiative on 21st-Century Trade First Agreement Implementation Act, which reasserted some of Congress’ authority over trade agreements by endorsing the first phase agreement and establishing requirements for Congressional oversight and approval of the next stage.⁶⁸ In a signing statement attached to his approval of the act, President Biden asserted that several of the new oversight measures are unconstitutional and will be treated as non-binding.⁶⁹ Members of Congress immediately objected to the administration’s position, showing that the debate about how the Biden administration has conducted trade negotiations.

⁶⁵ 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/2023-05/AIT-TECRO%20Trade%20Agreement%20May%202023.pdf>.

⁶⁶ The chapters contain commitments on efficient customs clearance, electronic invoicing, transparency, and good governance standards that could help reduce trade and investment costs for some industries. Other than the services domestic regulation chapter, a new topic for US trade agreements, the remaining four chapters are substantially similar to their corresponding chapters in other recent US trade agreements, including the US-Mexico-Canada Agreement (USMCA), the 2020 US- Brazil Protocol Relating to Trade Rules and Transparency (US-Brazil Protocol), and the 2020 updates to the US-Ecuador Trade and Investment Council Agreement (US-Ecuador Protocol).

⁶⁷ US-Taiwan Initiative On 21st-Century Trade: Negotiating Mandate, August 17, 2022, accessible here: [https://ustr.gov/sites/default/files/2022-08/US-Taiwan%20Negotiating%20Mandate%20\(Final\).pdf](https://ustr.gov/sites/default/files/2022-08/US-Taiwan%20Negotiating%20Mandate%20(Final).pdf).

⁶⁸ United States-Taiwan Initiative on 21st-Century Trade First Agreement Implementation Act, accessible here: <https://www.govinfo.gov/content/pkg/BILLS-118hr4004enr/pdf/BILLS-118hr4004enr.pdf>.

⁶⁹ Statement from President Joe Biden on H.R. 4004, the United States-Taiwan Initiative on 21st-Century Trade First Agreement Implementation Act, accessible here: <https://www.whitehouse.gov/briefing-room/statements-releases/2023/08/07/statement-from-president-joe-biden-on-h-r-4004-the-united-states-taiwan-initiative-on-21st-century-trade-first-agreement-implementation-act/>.

Petitions & Investigations

Investigations

ITC Issues Preliminary Injury Determination in ADD and CVD Investigations into Melamine from Germany, India, Japan, Netherlands, Qatar, and Trinidad and Tobago

On April 4, 2024, the ITC published its affirmative preliminary determinations for the ADD and CVD investigations of Melamine from Germany, India, Japan, Netherlands, Qatar, and Trinidad and Tobago.⁷⁰ The ITC found (i) there is a reasonable indication that the US melamine industry is materially injured by imports from Germany, India, Netherlands, Qatar, and Trinidad and Tobago that are alleged to be sold at less than fair value and alleged to be subsidized by Germany, India, Qatar, and Trinidad and Tobago; and (ii) there is a reasonable indication that the US melamine industry is threatened with material injury by imports from Japan that are alleged to be sold at less than fair value. The ITC had initiated its investigation on February 21, 2023.⁷¹ Since the ITC reached an affirmative preliminary determination, the Commerce investigations will proceed as planned. ITC will issue a notice of scheduling for its final phase investigation after receiving notice that Commerce has reached an affirmative determination in its preliminary investigation.

Commerce published its initiation notice for the ADD and CVD investigations on March 11, 2024.⁷² Commerce intends to individually examine all known producers/exporters from each country for this investigation. Those companies, as named in the petition, are LAT Nitrogen Piesteritz GmbH from Germany; Gujarat State Fertilizer and Chemicals Limited from India; Mitsui Chemicals, Inc. from Japan; OCI Nitrogen B.V. from the Netherlands; Qatar Melamine Company and Muntajat Qatar Chemical and Petrochemical Marketing and Distribution Company from Qatar; and Methanol Holdings (Trinidad) Limited from Trinidad and Tobago. Commerce is unaware of any other producers/exporters but invites interested parties to name other potential respondents in the initiation notice.

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, 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 also known as 2,4,6-triamino-s-triazine; 1,3,5-Triazine-2,4,6-triamine; Cyanurotriamide; Cyanurotriamine; Cyanuramide; and by various brand names. Melamine is a crystalline

⁷⁰ "Melamine From Germany, India, Japan, Netherlands, Qatar, and Trinidad and Tobago; Determinations," 89 FR 23610 (April 4, 2024), accessible here: <https://www.federalregister.gov/documents/2024/04/04/2024-07181/melamine-from-germany-india-japan-netherlands-qatar-and-trinidad-and-tobago-determinations>.

⁷¹ "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>.

⁷² "Melamine From Germany, India, Japan, the Netherlands, Qatar, and Trinidad and Tobago: Initiation of Less-Than-Fair-Value Investigations," 89 FR 17413 (March 11, 2024), accessible here: <https://www.federalregister.gov/documents/2024/03/11/2024-05127/melamine-from-germany-india-japan-the-netherlands-qatar-and-trinidad-and-tobago-initiation-of>.

powder or granule. All melamine is covered by the scope of these investigations 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 investigations. Melamine that is otherwise subject to these investigations is not excluded when commingled with melamine from sources not subject to these investigations. Only the subject component of such commingled products is covered by the scope of these investigations.

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

Commerce Issues Continuation Order Following Fifth Review of the ADD Order on Clad Steel Plate from Japan

On April 16, 2024, Commerce published a notice of continuation of the ADD order on clads steel plate from Japan, having completed recently the fifth five-year review.⁷³ The continuation order follows from final determinations by Commerce and the ITC that revoking the ADD order would lead to recurrence of the dumping and accompanying injury.

On April 10, 2024, the ITC issued notice that it had determined that revoking the ADD order on clad steel plate from Japan would likely lead to continuation or recurrence of the material injury to the US industry.⁷⁴ The ITC had previously 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.⁷⁵

Commerce published notice of its determination that the revocation of the ADD order would likely lead to continuation or recurrence of dumping on March 6, 2024.⁷⁶ Commerce determined a dumping margin of 118.53%, which is unchanged from the previous review. Commerce originally announced the initiation of its portion of the fifth five-year review on November 1, 2023 and determined it would conduct an expedited review after not receiving substantive responses from the interested parties.⁷⁷

Covered product

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.

⁷³ "Clad Steel Plate From Japan: Continuation of Antidumping Duty Order," 89 FR 26863 (April 16, 2024), accessible here: <https://www.federalregister.gov/documents/2024/04/16/2024-07997/clad-steel-plate-from-japan-continuation-of-antidumping-duty-order>.

⁷⁴ "Clad Steel Plate From Japan," 89 FR 25281 (April 10, 2024), accessible here: <https://www.federalregister.gov/documents/2024/04/10/2024-07608/clad-steel-plate-from-japan>.

⁷⁵ "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>.

⁷⁶ "Clad Steel Plate From Japan: Final Results of the Expedited Fifth Sunset Review of Antidumping Duty Order," 89 FR 15973 (March 6, 2024), accessible here: <https://www.federalregister.gov/documents/2024/03/06/2024-04739/clad-steel-plate-from-japan-final-results-of-the-expedited-fifth-sunset-review-of-antidumping-duty>.

⁷⁷ "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>.

Stainless clad steel plate is manufactured to American Society for Testing and Materials (ASTM) specifications A263 (400 series stainless types) and A264 (300 series stainless types). Nickel and nickel-base alloy clad steel plate is manufactured to ASTM specification A265. These specifications are illustrative but not necessarily all-inclusive. Products under this order are classified in HTSUS 7210.90.10.00, though the written description is dispositive.