

US Multilateral Trade and Policy Developments

Japan External Trade Organization

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Trade Policy Developments

NIST Issues Draft National Standards Strategy Roadmap

On June 26, 2024, the US Department of Commerce National Institute of Standards and Technology (NIST) published a draft roadmap for a US national standards strategy for critical and emerging technologies (the “Roadmap”).¹ NIST intends for the Roadmap to guide US government actions supporting pre-standards development activities, improve workforce skills, and support inclusivity and integrity in international technical standards fora.

Publication of the draft Roadmap follows NIST’s September 2023 request for information and a series of stakeholder listening sessions, which sought public input on how the US government can better support the international standards system.² According to industry sources, the draft Roadmap includes revisions addressing feedback that NIST received from the private sector. NIST, together with the US Patent and Trademark Office (USPTO) and the International Trade Administration (ITA), has also conducted public outreach on the connection between intellectual property rules and technical standards.³

The May 2023 National Standards Strategy

NIST’s Roadmap builds on the Biden administration’s National Standards Strategy for Critical and Emerging Technology (the “Strategy”), which the White House issued in May 2023.⁴ The Strategy intends to “strengthen U.S. leadership and competitiveness in international standards development and ensure that the ‘rules of the road’ for [critical and emerging technology (‘CET’)] standards embrace transparency, openness, impartiality and consensus, effectiveness and relevance, coherence, and broad participation.” The Biden administration characterized the Strategy as the first national strategy for technical standards that the US government has ever produced, highlighting the new political priority of maintaining US influence in emerging technologies.

The Strategy defined CET as including “communication and networking technologies, semiconductors and microelectronics, artificial intelligence [AI], biotechnologies, positioning/navigation, digital identity, clean energy, quantum information and other specific CETs for our security and economy such as automated and connected infrastructure, biobanking, cybersecurity and privacy, carbon capture, and critical minerals supply.” The government will review and update the list every two years.

Most technical standard setting bodies in the United States are private, composed of companies from the relevant industries. The new government-driven Strategy will not change this overall landscape. The US government’s direct involvement will remain limited, with a focus on facilitating private sector initiatives. NIST (which already coordinates federal engagement on technical standards) will be at the core of the Strategy’s implementation.

The Strategy lays out four objectives for the US government’s work:

¹ “NIST Seeks Public Input on Draft Roadmap for USG National Standards Strategy for CET,” June 26, 2024, accessible here: <https://www.nist.gov/news-events/news/2024/06/nist-seeks-public-input-draft-roadmap-usg-national-standards-strategy-cet>.

² “Request for Information on Implementation of the United States Government National Standards Strategy for Critical and Emerging Technology (USG NSSCET),” 88 FR 61527 (September 7, 2023), accessible here: <https://www.federalregister.gov/documents/2023/09/07/2023-19245/request-for-information-on-implementation-of-the-united-states-government-national-standards>.

³ “Joint ITA-NIST-USPTO Collaboration Initiative Regarding Standards; Notice of Public Listening Session and Request for Comments,” 88 FR 62349 (September 11, 2023), accessible here: <https://www.federalregister.gov/documents/2023/09/11/2023-19667/joint-ita-nist-uspto-collaboration-initiative-regarding-standards-notice-of-public-listening-session>.

⁴ “Biden-Harris Administration Announces National Standards Strategy for Critical and Emerging Technology,” May 3, 2024, accessible here: <https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/04/fact-sheet-biden-harris-administration-announces-national-standards-strategy-for-critical-and-emerging-technology/>.

- **Investment:** Support private investment in pre-standardization research so US innovation can more often feed into technical standards.
- **Participation:** Increase US participation in standards development bodies, working with the private sector.
- **Workforce:** Support technical standards training so the US industry has more workforce capacity to engage with and contribute to standards bodies.
- **Integrity and inclusivity:** Ensure technically sound and independent standards setting so that international technical standards are based on genuine merit.

NIST's draft Roadmap

NIST's Roadmap proposes a range of short-term actions and long-term strategies the US government would adopt in pursuit of the Strategy's objectives. Immediate actions identified in the Roadmap are grouped into the Strategy's investment, participation, workforce, and integrity and inclusivity categories. According to NIST, the government can implement the immediate actions through current programs and budgets. The long-term activities, however, may require new funding from Congress, making the Roadmap's full implementation uncertain until Congress weighs in.

The Roadmap proposes seven outcomes for sustained activities:

1. Increase investment in critical and emerging technologies (CETs) research, development, and standardization to sustain US technical leadership;
2. Increase support for government programs to promote US stakeholder participation in international standards development;
3. Enhance coordination across government departments to sustain and grow participation in standardization;
4. Expand communication, information sharing, and other cooperative efforts with the private sector;
5. Enhance educational efforts to inform current and future standards leaders;
6. Enhance US and like-minded countries' representation and sustain influence in the international standards system; and
7. Enhance engagement with academia to sustain the standards innovation ecosystem.

Besides the specific actions laid out in the Roadmap, NIST also establishes several broad themes focused on enhancing coordination within the US government, with the private sector, and with like-minded foreign governments (which NIST describes as "those nations committed to an open and transparent standards system").

NIST collected additional comments on the draft Roadmap through July 12. As the Strategy calls for the US government to align its efforts with private sector led standards programs, feedback is important to ensuring the government's actions are providing useful support.

The Biden administration has already begun increasing coordination on emerging technology development issues with allies, especially on AI. The US-EU Trade and Technology Council (TTC) and recent engagements with Japan and Korea have featured the topic. Speaking at a Congressional hearing on June 26, Secretary of Commerce Gina Raimondo discussed the importance of AI policy and cooperation with allies, stating, "we have to get a group of like-

minded countries who share our values, who are committed to our values to commit themselves with us around the safety guidelines for how AI is developed.”⁵

United States Updates UFLPA Enforcement Strategy, Adds New Priority Sectors

On July 9, 2024, the US government published its annual update to the enforcement strategy for the Uyghur Forced Labor Prevention Act (UFLPA) (the “2024 Report”).⁶ The UFLPA establishes a rebuttable presumption that any goods mined, produced, or manufactured wholly or in part in the Xinjiang Uyghur Autonomous Region (XUAR), or produced by an entity on the UFLPA Entity List, are prohibited from entering the United States under Section 307 of the Tariff Act. This year’s update elevates polyvinyl chloride (PVC), aluminum, and seafood as new high-priority sectors for enforcement. The 2024 Report also provides additional information about the covered Chinese government labor programs and processes for the UFLPA Entity List.

In the first half of 2024, the Forced Labor Enforcement Task Force (FLETF) significantly expanded the UFLPA Entity List and escalated enforcement against apparel and textile imports. Solar panels continued to account for most of US Customs and Border Protection’s (CBP) detentions under the UFLPA, but solar panel detentions began to significantly decline in the past few months.

2024 UFLPA Strategy Report

The UFLPA’s annual strategy report provides the FLETF an opportunity to announce changes to the enforcement strategy and brief Congress about the government’s progress in implementing the law. This year’s update adds three new sectors to the high-priority enforcement list, provides more information on Chinese forced labor programs and the new Entity List process, and describes the FLETF’s ongoing enforcement efforts and resource needs.

Expanding the list of high-priority sectors

The 2024 Report adds three new sectors to the UFLPA’s list of high-priority sectors:

- **PVC:** The FLETF estimates that 10% of the world’s PVC supply originates in XUAR and that production in the region is growing. XUAR PVC is often used by downstream manufacturers in vinyl flooring. PVC product imports from China are already declining, which the FLETF ascribes to manufacturers removing XUAR-based suppliers from their supply chains. Prior to this priority listing, the FLETF had already added several XUAR-based PVC manufacturers to the Entity List.
- **Aluminum:** The FLETF estimates that approximately 9-12% of the world’s aluminum supply comes from XUAR. State- and privately-owned aluminum companies in XUAR (including some that supply automotive manufacturers) have been linked to forced labor programs in recent studies by labor activist groups. Several associated companies are already on the Entity List. The FLETF also cautions that production of other non-ferrous metals in XUAR is increasing, which could lead to more US scrutiny of the broader metals sector.
- **Seafood:** The FLETF added seafood to the priority list in response to reporting that the Chinese government is transporting Uyghurs and other ethnic minorities to work in seafood processing facilities in eastern China. In June 2024, the FLETF added one of these seafood processors to the Entity List based on the allegations. China is the

⁵ Innovation, Data, and Commerce Subcommittee Hearing: “The Fiscal Year 2025 Department of Commerce Budget,” June 26, 2024, accessible here: <https://energycommerce.house.gov/events/innovation-data-and-commerce-subcommittee-hearing-the-fiscal-year-2025-department-of-commerce-budget>.

⁶ “2024 Updates to the Strategy to Prevent the Importation of Goods Mined, Produced, or Manufactured with Forced Labor in the People’s Republic of China,” July 9, 2024, accessible here: <https://www.dhs.gov/sites/default/files/2024-07/2024%20Updates%20to%20the%20Strategy%20to%20Prevent%20the%20Importation%20of%20Goods%20Mined%2C%20Produced%2C%20or%20Manufactured%20with%20Forced%20Labor%20in%20the%20People%E2%80%99s%20Republic%20of%20China.pdf>.

largest exporter of seafood to the United States and engages in several stages of the supply chain, including processing fish that are caught by fishing fleets of third countries.

The three additions are the first expansion of the formal priority-sectors list since the UFLPA entered into force. The action follows from the FLETF's recent creation of an internal process for identifying new sectors, which the FLETF describes in the 2024 Report. In considering new sectors that are nominated for inclusion on the priority list, the FLETF states that it will consider: (i) the availability of credible evidence of high risks of forced labor in the sector, (ii) whether the Chinese government is seeking to develop the sector in XUAR, and (iii) whether the sector's XUAR-based production represents at least either 15% of China's total production or 10% of global production.

Importers should expect CBP to increase scrutiny of imports that contain these materials, especially where supply chains and corporate relationships suggest potential links to XUAR or entities elsewhere in China that are associated with government labor programs. The 2024 Report states that importers should consider themselves to be "on notice to more closely review each tier in their supply chains to enhance transparency and focus due diligence efforts on the supply chain nodes involving these sectors."

The original high-priority sectors (which Congress provided in the law and remain on the priority list) are apparel, cotton, and cotton products; silica-based products (including polysilicon); and tomatoes.

Updating the descriptions of Chinese government labor programs

Since the UFLPA entered force, the US government has published more details on Chinese "pairing assistance," "poverty alleviation," and other government labor programs that are considered forms of forced labor under the UFLPA.⁷ The 2024 Report describes this research. The updated guidance also incorporates the International Labor Organization's new definition of "state-imposed forced labor" and its risk factors.

Elaborating on the Entity List process

Over the past year, the FLETF added 38 new entities to the Entity List, for a total of 68. The recent listings include companies in the agriculture, batteries, electronics, food additives, household appliances, nonferrous metals, plastics, and textiles sectors. The FLETF is likely to continue adding companies to the Entity List at a similar pace for the foreseeable future.

The strategy update describes the recent changes to the listing process, which the FLETF says have enabled the acceleration of listings. A new Entity List Team at the DHS Office of Strategy, Policy, and Plans is now responsible for identifying, investigating, and recommending entities for listing. In making these listings, the FLETF states that it has "prioritized its efforts to identify entities who have egregiously, and with corroborated evidence, engaged in activities that meet the criteria for inclusion." The FLETF will also target entities in the priority sectors as it conducts its reviews.

Entity List actions have focused on entities that fall under the UFLPA's Section 2(d)(2)(B)(i), Section 2(d)(2)(B)(ii), and Section 2(d)(2)(B)(v) lists. Those three sections cover entities that produce goods in XUAR using forced labor, participate in XUAR labor transfer programs, and source materials from such entities. To date, the FLETF has not listed any entities under Section 2(d)(2)(B)(iv), which covers entities that export specified products made by Entities Listed under Section 2(d)(2)(B)(i) and 2(d)(2)(B)(ii) to the United States (the 2024 Report provides a list of the specified products in Appendix B). According to the 2024 Report, the FLETF has begun examining more complex supply chain relationships for Entity List candidates, including ones that may fall under Section 2(d)(2)(B)(iv). The

⁷ "Xinjiang Supply Chain Business Advisory Addendum," September 26, 2023, accessible here: <https://www.state.gov/wp-content/uploads/2023/09/Xinjiang-Business-Advisory-Addendum-July-2023-FINAL-Accessible-09.26.2023.pdf>.

2024 Report states this shift to targeting traders instead of primary producers stems from a lack of visibility into supply chains within China.

The 2024 Report also notes that the FLETF may consider export controls, sanctions, and visa restrictions targeting listed entities and associated persons, explaining that “these tools are designed to apply a range of specific pressures and impacts, including denying officials the right to enter the United States, restricting export privileges, and blocking assets, and contribute to the whole-of-government approach to combating forced labor.”

Ongoing enforcement improvements and requests for more funding

The FLETF and its member agencies are continuing to expand staffing and adopt new technologies and investigation methods to strengthen enforcement. The 2024 Report describes the government’s ongoing improvements and explains what new resources Congress could provide. Notably, the 2024 Report argues that the FLETF and its member agencies need more funding from Congress to sustain enforcement activities. According to the report, Congress has not appropriated enough funding to maintain the FLETF itself or provide sufficient staff to the agencies tasked with investigating forced labor allegations. DHS Homeland Security Investigations (HSI) is also requesting a budget increase so it can dedicate additional law enforcement personnel to investigating crimes related to use of forced labor.

CBP discusses various ongoing programs to improve enforcement, international cooperation, and private sector outreach, for which Congress will need to sustain current budget levels to implement. CBP is deploying tools to track supply chains and trace the origin of products to detect links to XUAR. Over the next year, CBP says it intends to modify the Automated Commercial Environment (ACE), the Seized Asset and Case Tracking System, and Advanced Trade Analytics Platform to improve supply chain tracking and detect evasion. CBP is also beginning to broaden the targeting of its inspections, including by increasing audits and more closely examining *de minimis* imports.

Latest trends in UFLPA detentions

In the first half of 2024, CBP detained 2,508 shipments worth a total of \$1.1 billion.⁸ As of July 1, CBP has released 1,018 of these shipments (worth \$755.6 million) into the United States and denied entry to 533 of the shipments (worth \$64.5 million). Still pending a decision are 957 shipments worth \$302.4 million, or about 38% of the shipments that CBP detained. Detentions reached a record monthly high in March 2024, mostly because of large detentions of solar panel shipments from Southeast Asia. In April, May, and June, however, overall detentions rapidly fell. June 2024 (the latest month for which data is available) experienced the lowest number of detentions since UFLPA entered into force. Reduced detentions of Southeast Asian solar panels led the decline, while detentions of apparel and textile products increased. Shifts in overall detention rates could result from improved compliance practices by importers, changes in CBP’s enforcement priorities, new antidumping and countervailing duties targeting solar panels from Southeast Asia, or other outside factors affecting trade patterns.

Overall, since UFLPA’s entry into force in June 2022, CBP has detained 9,128 shipments worth \$3.46 billion. CBP has denied entry to 3,596 of those shipments (worth \$700.86 million), while 4,191 of the detained shipments (worth \$2.33 billion) have been released into the United States, and 1,341 detained shipments (worth \$424.05 million) are listed as still pending a decision.

Solar power industry detentions

Most of the detentions in the first half of 2024 (59.3% of the shipments and 90.7% of the shipment value) have targeted what CBP’s publications label as “electronics.” Media and industry reports indicate these “electronics” are almost entirely solar panels manufactured in Southeast Asia. CBP is likely detaining such shipments based on

⁸ All data from “Uyghur Forced Labor Prevention Act Statistics,” CBP, accessed July 15, 2024, accessible here: <https://www.cbp.gov/newsroom/stats/trade/uyghur-forced-labor-prevention-act-statistics>.

allegations that the manufacturers are using polysilicon sourced from XUAR. In the past three months, there has been a large decline in these solar panel detentions. The decline may be a result of solar manufacturers removing XUAR inputs (or better documenting their absence) from manufacturing supply chains that export to the United States. Addressing enforcement in the solar power sector in recent public remarks, DHS Secretary Alejandro Mayorkas said that the DHS has “seen a tremendous amount of movement from a reliance on XUAR... to shift the supply chain to a point where by 2026 – I believe we’re going to see a 200% increase in manufacture of solar grade polysilicon in North America and India.”⁹

While detentions from Southeast Asia have been declining, India has emerged a new leading target for solar panel detentions in the past two months. Detentions from India exceeded detentions from Thailand, Malaysia, and Vietnam for the first time in June 2024. The activity followed soon after media reported that some Indian solar panel manufacturers are producing panels using suspect Chinese inputs.

Apparel and textile industry detentions

The apparel and textile sector has been another notable target for UFLPA enforcement, though the shipments CBP has targeted for detention tend to be lower value than the detained solar panel shipments. In the first half of 2024, CBP detained 469 apparel and textile shipments worth a total of \$20.7 million. Only about 11% of the detained value was imported directly from China. Instead, Nicaragua, the Philippines, Bangladesh, and Vietnam have been the sources of most of the recently detained apparel and textiles. CBP likely suspects manufacturers in these third countries are using cotton inputs sourced from XUAR or the cotton traders on the Entity List.

Detentions of apparel and textiles have significantly increased in the past two months. By number of shipments, apparel and textiles detentions exceeded electronics detentions in June for the first time (125 shipments worth \$5.2 million). In May 2024, the FLETF also added 26 Chinese cotton trading and warehousing companies to the UFLPA Entity List, alleging the companies are trading cotton from XUAR.

The rapid increase in apparel and textiles detentions and Entity Listings could signal CBP is following through on a commitment the Department of Homeland Security (DHS) recently made to the US textile industry to increase customs rules enforcement against textile and apparel importers. The DHS unveiled the new plan for tighter customs enforcement for imported apparel and textile products on April 5, 2024, after the US domestic apparel industry raised concerns about unfair trade practices.¹⁰ The plan focuses on ensuring companies are claiming free trade agreement (FTA) preferential duties properly and enforcing existing import laws more aggressively in the sector. According to DHS, the efforts include addressing the “risk of XUAR-sourced cotton in *de minimis* shipments and to protect the textile and apparel industries’ investments in clean Free Trade Agreement supply chains.”

Other sectors

CBP also detained hundreds of shipments of industrial materials, base metals, and agriculture products in the first half of 2024. Base metals (a category that includes aluminum) has been the next largest category of detentions after solar panels / electronics and apparel and textiles. In the first half of 2024, CBP detained 134 base metals shipments worth a total of \$61.30 million. Smaller numbers of detentions of shipments in the pharmaceutical, consumer products, automotive, and machinery sectors also occurred.

Unlike solar panels and apparel and textiles (where CBP appears to be targeting imports from third countries that allegedly contain Chinese inputs), most of the detentions in these other sectors were shipments that came directly

⁹ “New Frontiers in UFLPA Enforcement: A Fireside Chat with DHS Secretary Alejandro Mayorkas,” Center for Strategic and International Studies, recording accessible here: <https://www.youtube.com/watch?v=ckgHCvY-tAw>.

¹⁰ “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>.

from China. These shipments from China tend to be lower in value than the detained solar panel shipments from Southeast Asia. Overall, only about 11.1% of the value of all detained imports – but 44.8% of individual detained shipments – in the first half of 2024 were from China.

Congress to Consider China-focused Legislative Package in Fall 2024

The Republican leadership of the House of Representatives plans to take up a package of bills related to China policy in the next few months. Speaker of House Mike Johnson (R-LA) discussed the plans in a July 8, 2024 speech, his first comprehensive speech about his foreign policy agenda since he assumed leadership of the House.¹¹ The legislation would include various proposals to reduce US economic engagement with China, including restrictions on Chinese biotechnology companies, customs *de minimis* reform, sanctions targeting entities trading with Russia, and limits on US investment in China. The House may add other measures or alter the current proposals as the package makes its way through the House and the Senate.

Most of the proposals under consideration have support from both Republicans and Democrats, and Speaker Johnson has said that he hopes that much of the initiative can be bipartisan. With the House focused on budget negotiations in July, Representatives would likely begin work on the bills either after returning to session in September (the House is out of session in August) or in the weeks between the November election and the end of the legislative session. Passing the bills in both chambers of Congress with so little time remaining will be a challenge, and the effort could become delayed until the next legislative session.

Restricting Chinese biotechnology companies

Speaker Johnson said he specifically intends to hold a vote on the BIOSECURE Act.¹² This bipartisan proposal would prohibit the US government and organizations that receive US government funding from procuring services or equipment from certain biotechnology companies linked to China and other listed foreign adversaries.

The bill was originally introduced to the House of Representatives on January 25, 2024 (H.R.7085) and to the Senate on December 20, 2023 (S.3558), both with bipartisan support. The House version was reintroduced with some modifications on May 10, 2024 as H.R.8333 after H.R.7085's original sponsor resigned from Congress.¹³ The Senate Committee on Homeland Security and Governmental Affairs approved the S.3558 on March 6, 2024 and the House Committee on Oversight and Accountability approved H.R.8333 on May 15, 2024, both with strong bipartisan majorities. The House and Senate's versions of the bill are slightly different, which will need to be reconciled before a final vote.

Limiting access to customs *de minimis* entry for Chinese shipments

Discussing *de minimis* reform proposals, Speaker Johnson remarked that the House will consider legislation that would "rein in the *de minimis* privilege for any good subject to Section 301 trade enforcement tariffs, and that will help stymie China's attempts to exploit American trade." The statement is likely referencing H.R.7979, the End China's *de Minimis* Abuse Act, which was approved by the House Committee on Ways and Means on April 17, 2024 with only Republican support.¹⁴ H.R. 7979 would exclude goods covered by Section 301 duties from *de minimis* coverage, but makes few other changes to the entry system. If Section 301 merchandise is excluded from *de minimis* entry, about half of current US *de minimis* imports from China would lose *de minimis* treatment because of the ongoing Section 301 action against China.

¹¹ "Speaker Mike Johnson on the Threats to the US-Led World Order," Hudson Institute, July 8, 2024, recording and transcript accessible here: <https://www.hudson.org/events/speaker-mike-johnson-threats-us-led-world-order-rebeccah-heinrichs>.

¹² S.3558 - A bill to prohibit contracting with certain biotechnology providers, and for other purposes, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/senate-bill/3558>; and H.R.7085 - BIOSECURE Act, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/7085>.

¹³ H.R.8333 - BIOSECURE Act, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/8333>.

¹⁴ 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>.

There are several other approaches to *de minimis* reform that members of Congress have proposed in the past year, which has led to debate about the best approach. Democrats, led by Rep. Earl Blumenauer (D-OR) on the Ways and Means Committee, opposed H.R. 7979 in favor of these other options.

New sanctions and export controls

Congress is considering multiple bills that would expand sanctions and export controls targeting Chinese entities. In his July 8 remarks, Speaker Johnson stated that he plans to hold a vote on legislation that would “punish the Chinese military firms that provide material support to Russia and Iran.”

The NO LIMITS Act (H.R.8043)¹⁵ would impose blocking sanctions on entities identified as “Chinese military companies” by the US Department of Defense that are doing business in Russia. The bill has bipartisan support and may form the basis of the legislation Speaker Johnson is considering.

Other sanctions and export control proposals may also be under consideration. H.R.8924, or the Protecting American Innovation and Development Act of 2024 (PAID Act), is another bill that could be included in the effort.¹⁶ H.R.8924 would amend the Export Control Reform Act to require the End-User Review Committee to identify foreign adversary entities that are using a patented inventions or covered trade secrets without license. The House Committee on Foreign Affairs approved the bill on July 11, 2024, positioning it for a full vote on the House floor.

Outbound investment restrictions

The bills under consideration in the House would include “options to restrict outbound investments in China” according to Speaker Johnson, though the details of the proposals are still unclear. The House Financial Services Committee and Foreign Affairs Committee have been at odds on the proper approach to limiting US investment in China, stalling progress on several proposed bills. Supporters of the measures are now negotiating to find a compromise that could succeed in 2024.

The Foreign Affairs Committee advanced the Preventing Adversaries from Developing Critical Capabilities Act (H.R.6349) in November 2023, which would create an outbound investment regime similar to the one under development by the Biden administration.¹⁷ The Senate attempted to include a similar bill, the Outbound Investment Transparency Act (S.2678)¹⁸ in the 2024 National Defense Authorization Act (NDAA). The effort failed because of opposition from Republican leaders of the House Financial Services Committee.¹⁹

The House Financial Services Committee, led by Rep. Patrick McHenry (R-NC), has instead favored a sanctions-based approach. Rep. McHenry’s Chinese Military and Surveillance Companies Sanctions Act (H.R. 760) would sanction Chinese military industrial complex companies.²⁰ This approach targets revenue and technology flows, instead of investment flows. The House Financial Services Committee approved H.R.760 unanimously in September 2023, but it has not yet received a floor vote.

¹⁵ H.R.8043 - NO LIMITS Act of 2024, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/8043>.

¹⁶ H.R.8924 - Protecting American Innovation and Development Act of 2024, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/8924>.

¹⁷ H.R.6349 - Preventing Adversaries from Developing Critical Capabilities Act, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/6349>.

¹⁸ S.2678 - Outbound Investment Transparency Act of 2023, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/senate-bill/2678>.

¹⁹ Letter from the House Financial Services Committee to House and Senate leadership on the outbound investment mechanism, November 29, 2024, accessible here: https://financialservices.house.gov/uploadedfiles/2023-11-29_fsc_chairs_letter_to_hasc_and_sasc_-_section_1085.pdf.

²⁰ H.R.760 - Chinese Military and Surveillance Company Sanctions Act of 2023, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/760>.

House Select Committee on the Chinese Communist Party

Speaker Johnson also committed to reinstating the House Select Committee on the Chinese Communist Party in the next legislative session if he remains Speaker. The Select Committee on the Chinese Communist Party is a bipartisan committee formed in January 2023 to develop a new bipartisan Congressional policy towards China, mostly made up of Representatives who are skeptical of US engagement with China. Select committees are specialized sub-groups of Congress that are appointed to temporarily perform special tasks that are beyond the regular activities of the normal permanent standing committees. Select Committees need to be re-authorized in rules packages in every new legislative session.

Since its formation, the Select Committee has held public hearings intended to criticize Chinese policies and call for a more assertive US response. These hearings have been substantive, investigating specific policy concerns, and have over the past year led to the creation of an extensive set of legislative recommendations, including several of the bills the House will vote on.²¹ Though the Select Committee has built support among members of both parties for its aggressive stance, it has also drawn criticism from legislators and business groups for its extremism, trade protectionism, and its skepticism of diplomatic solutions.

US Senate Introduces Bill to Strengthen Critical Mineral Supply Chains

The Senate is considering a new bipartisan bill intended to ensure the United States and its allies have access to a reliable end-to-end critical mineral supply chain, including by reducing dependence on Chinese suppliers. S.4712, or the Global Strategy for Securing Critical Minerals Act of 2024, was introduced on July 11, 2024.²² The bill would streamline diplomatic efforts around supply chain security, support minerals investments in partner countries, increase International Development Finance Corporation (DFC) the Export-Import Bank of the United States (EXIM) support for critical material projects, improve government information sharing and outreach, expand research and development partnerships with US allies, and study tariff options. The most significant measure the bill would implement is a new subsidy program for critical materials metallurgical facilities in the United States, which is similar to the CHIPS Act's semiconductor facility grant program.

Situation in Congress

A bipartisan group of eight Senators introduced the bill on July 11, 2024, after which it was referred to the Senate Committee on Foreign Relations for consideration. Senator Mark Warner (D-VA) is sponsoring the bill, with Sens. Marco Rubio (R-FL), John Hickenlooper (D-CO), Bill Cassidy (R-LA), Christopher Coons (D-DE), Angus King (I-ME), Thomas Tillis (R-NC), and Mark Kelly (D-AZ) as cosponsors. The bill could probably not succeed as a standalone measure during the current legislative session, given the limited time left on the Senate's calendar and competing priorities. Given the bipartisan support for the bill, its sponsors could attach it to other must-pass legislation like the 2025 National Defense Authorization Act or reintroduce it at the start of the next legislative session.

The bill is the latest in a series of proposals in Congress to strengthen US supply chains and diversify away from China, consolidating many critical minerals-focused measures into a single bipartisan bill. The Senators sponsoring the bill have introduced other related legislation in the past and have encouraged the Biden administration to take more actions on critical mineral supply chains.²³ Earlier in 2024, some of the bill's co-sponsors joined another

²¹ "Moolenaar on Speaker Johnson's Plan to Renew the Select Committee," Select Committee on the CCP, July 8, 2024, accessible here: <https://selectcommitteeontheccp.house.gov/media/press-releases/moolenaar-speaker-johnsons-plan-renew-select-committee>.

²² S.4712 - Global Strategy for Securing Critical Minerals Act of 2024, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bills/118/congress/senate/bills/4712>; a copy of the bill as introduced is accessible here: <https://www.rubio.senate.gov/wp-content/uploads/2024/07/920DE4343C1C3EB5FD41A3ED9A1D98C5.ros24c41.pdf>.

²³ See, for example, "Rubio, Warner Lead Push To Support Critical Mineral Projects," November 16, 2024, accessible here: <https://www.rubio.senate.gov/in-response-to-the-peoples-republic-of-chinas-dominance-in-the-industry-senate-intel-chair-and-vice-chair-lead-colleagues-in-push-to-support-critical-mineral-projects/>.

bipartisan group to introduce a bill in both chambers of Congress that would direct the government to study global mineral sources and support US investment in the sector.²⁴ The House of Representatives Select Committee on the Chinese Communist Party (CCP) also established a new Policy Working Group (PWG) on critical minerals in June 2024, which is developing a legislative agenda that appears broadly aligned with the goals of the new Senate bill.²⁵

Content of the bill

The bill includes six titles proposing policies to support the critical materials industry in the United States and allied countries, summarized below. The bill defines “critical materials” as strategic or critical materials (including rare earth elements) that are necessary to meet national defense or national security requirements, including requirements relating to supply chain resilience, or for the economic security of the United States. The bill does not provide a specific list of the materials and minerals to be included under this definition.²⁶

Title I: Enhancing US diplomatic support of critical material projects

The bill includes three measures to streamline diplomatic efforts to secure foreign sources of critical minerals:

Directs the Department of State to develop a report on the various parts of the US government involved in securing critical mineral supply chains and to improve their coordination.

Codifies the Partnership for Global Infrastructure and Investment into US law, intending to use it to coordinate a whole-of-government approach to securing supply chains.

Creates a new diplomatic function in the Department of State that would help US companies pursue critical mineral projects in other countries.

Title II: Increasing financial tools to support onshoring of critical materials

The bill includes several measures to increase government funding for critical material projects. The bill would amend the DFC’s rules, instructing it to support critical mineral development projects in high-income economies, and direct EXIM to provide guarantees, insurance, and extensions of credit to support critical mineral projects outside the United States in cases where the minerals produced are imported by the United States. The bill would also add critical minerals and magnets to the EXIM’s China and Transformational Exports program (CTEP), a program that helps US exporters compete with Chinese exporters. CTEP focuses on high tech sectors like artificial intelligence, green energy, and semiconductors, which already include some critical mineral industry activities.²⁷

In what may be the most significant aspect of the bill, Section 204 of Title II proposes a new system for subsidizing critical material metallurgy projects. The bill would direct the Department of Energy (DOE) to provide financial assistance that would incentivize investment in US critical mineral metallurgy and recycling facilities that contribute materials to the manufacturing of metals, alloys, and permanent magnets. DOE would prioritize projects that supply the US Department of Defense, the US defense industry, or critical energy infrastructure when reviewing funding applications. The bill provides \$750,000,000 for each of fiscal years 2025 and 2026, then \$200,000,000 for each of fiscal years 2027 through 2029 to fund these financial assistance programs. The bill describes a general process by

²⁴ S.3631 - Critical Minerals Security Act of 2024, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/senate-bill/3631>; and H.R.7662 - Critical Minerals Security Act of 2024, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/house-bill/7662>.

²⁵ “Select Committee Unveils Critical Minerals Policy Working Group,” Select Committee on the CCP, June 18, 2024, accessible here: <https://selectcommitteeontheccp.house.gov/media/press-releases/select-committee-unveils-critical-minerals-policy-working-group>.

²⁶ The Department of Energy already maintains a list of such materials under other laws, which may be instructive; see, “What Are Critical Materials and Critical Minerals?” Department of Energy, accessible here: <https://www.energy.gov/cmm/what-are-critical-materials-and-critical-minerals>.

²⁷ China and Transformational Exports Program, EXIM, accessible here: <https://www.exim.gov/about/special-initiatives/ctep>.

which companies may apply for the financial assistance and the DOE reviews the applications, though the DOE would still need to provide more specific guidelines for how the assistance program would work.

Applicants designated as foreign entities of concern (FEOC) would not qualify for financial assistance. Companies receiving financial assistance would also be prohibited from engaging in joint research or intellectual property sharing arrangements with FEOCs. The DOE could claw back financial assistance from awardees that engage in prohibited activities with FEOCs. The bill's definition of FEOC is mostly the same as the definition used in the CHIPS Act, targeting companies associated with North Korea, China, Russia, and Iran.²⁸ The bill makes one change to the CHIPS Act's approach, stating that the FEOC designation would not apply to any entity with respect to which foreign entities own less than 10% of the equity interest.

Title III: Increasing support for allied partnerships for critical material mapping, mining, and technology research

The bill would instruct the executive branch to expand collaboration with US allies and partners in developing critical material sources:

Directs the Department of the Interior to improve collaboration with US allies and partners on critical minerals issues, including knowledge sharing on resource mapping and materials processing and recycling. The bill highlights interest in more cooperation with Australia, Canada, Korea, Japan, and other US military allies.

Amends several laws to expand research collaboration with US allies, including by expanding mining and recycling research under section 40210 of the Infrastructure Investment and Jobs Act to include US allies, allowing the US Geological Survey (USGS) to collaborate with Australia and Canada at USGS energy and minerals research facilities, and allowing cooperation with US allies and partners at the Rare Earth Elements Demonstration Facility.

Title IV: Public-private collaboration on critical materials

The bill would instruct the Director of National Intelligence (DNI) to improve information sharing between the government and private industry about mitigating the "threat that illicit activities and tactics of foreign adversaries pose to United States entities involved in projects outside the United States relating to energy generation and storage, including with respect to critical materials inputs for those projects." The bill would also require the executive branch to improve promotion of US government financing tools that can support critical materials investments outside the United States, like those available through EXIM and the DFC.

Title V: Countering the People's Republic of China's efforts to manipulate critical material markets

The bill would instruct the executive branch to develop strategies for reducing US reliance on Chinese manufacturers for critical materials, though some measures under consideration would require additional legislation to implement.

The bill would direct the president to develop and propose a strategy to Congress to "establish or enhance responsible domestic production and procurement capabilities, including through recycling, for critical materials and related materials." The strategy would involve bringing together the president's existing authorities and proposing new potential authorities for consideration by Congress, which could lead to follow-up legislation. The report would be particularly concerned with identifying defense-critical end components that depend on imported critical materials and implementing strategies to develop domestic sources of those materials.

²⁸ For the CHIPS Act's FEOC implementation guidance, see, "Preventing the Improper Use of CHIPS Act Funding," 88 FR 65600 (September 25, 2023), accessible here: <https://www.federalregister.gov/documents/2023/09/25/2023-20471/preventing-the-improper-use-of-chips-act-funding>.

The bill would also direct the Department of the Treasury to conduct a study assessing the possibility of imposing tariffs on imports of electromagnets, batteries, and solar panels.²⁹ The study would provide estimates of appropriate rates for tariffs that could be imposed, as well as considering plans for how to implement the recommended tariffs and potential options for further increasing the tariffs over time.

The prospective tariffs would apply to imports from all countries except for: (i) US allies described in section 3(b)(2) of the Arms Export Control Act (*i.e.*, member countries of the North Atlantic Treaty Organization (NATO), Australia, Japan, South Korea, Israel, and New Zealand); (ii) countries designated as major non-NATO allies (*i.e.*, Argentina, Australia, Bahrain, Brazil, Colombia, Egypt, Israel, Japan, Jordan, Kenya, Kuwait, Morocco, New Zealand, Pakistan, the Philippines, Qatar, South Korea, Thailand, Tunisia, and Taiwan); (iii) Chile (under the United States-Chile Free Trade Agreement); (iv) Mexico (under the United States-Mexico-Canada Agreement); and (v) Costa Rica, El Salvador, Guatemala, Honduras, and the Dominican Republic (under the Dominican Republic-Central America Free Trade Agreement (CAFTA-DR)). Tariffs on imports from India would be waived for the first 10 years of the law. Nicaragua, Oman, Panama, Peru, and Singapore would be subject to the tariffs despite having free trade agreements with the United States. Chinese exports would face a separate, higher tariff rate than other covered countries.

Sen. Rubio, one of the bill's co-sponsors, introduced a separate bill on July 11 that would impose tariffs immediately instead of simply conducting a study.³⁰ Sen. Rubio's bill, S.4702, or the Critical Mineral Supply Chain Realignment Act, would impose prohibitively high tariffs on imports of electromagnets, batteries, and solar panels manufactured by Chinese entities (regardless of the country in which the production takes place) and impose 25% global tariffs on any other imports from countries that are not members of the Minerals Security Partnership, US military allies, or select free trade agreement partners. Sen. Rubio does not have any co-sponsors for this more extreme proposal.

Title VI: Workforce development efforts

The bill's sponsors are also calling for a "whole-of-government effort to develop workforce training programs to advance end-to-end critical mineral capabilities." To that end, the bill would direct the government to work with the private sector and educational and training institutions to expand workforce training programs related to critical material mining, separation, processing, recycling, metallurgy, and equipment maintenance.

Senate Proposes New Trade Facilitation and *De Minimis* Legislation, While President Biden Asks for New Customs Enforcement Authorities

Discussions about reforming US customs procedures and limiting use of customs *de minimis* entry are continuing in Washington. At the end of July, a group of Senators led by Bill Cassidy (R-LA) circulated a draft of a long-awaited trade facilitation reform bill for stakeholder input while Sen. Ron Wyden (D-OR) circulated a proposed compromise bill for reforming the US customs *de minimis* threshold. President Biden also asked Congress for new legislation on the customs *de minimis* threshold as part of a crackdown on drug trafficking announced on July 31, 2024. Sen. Cassidy's trade facilitation bill would improve technical aspects of US import and export regulations, lowering compliance costs for traders. On the other hand, the *de minimis* reform proposals under consideration would significantly reduce access to the simplified import process, raising customs compliance costs for low-value shipments and cross-border e-commerce.

The Senate's customs reform proposal

²⁹ Harmonized Tariff Schedule of the United States (HTS) codes 8505, 8506, 8507, 8541.42.00, and 8541.43.00.

³⁰ S.4702 - Critical Mineral Supply Chain Realignment Act of 2024, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bills/118/congress/senate/bills/4702>; a copy of the bill as introduced is accessible here: <https://www.rubio.senate.gov/wp-content/uploads/2024/07/Critical-Mineral-Supply-Chain-Realignment-Act-of-2024-HLA24649.pdf>.

On July 31, 2024, Sen. Cassidy and Sen. Cortez Masto (D-NV) issued a discussion draft of the trade facilitation bill, the “Customs Facilitation Act of 2024.”³¹ The bill proposes various measures to streamline US customs procedures, enhance administrative systems, and improve information sharing with the private sector. Interested stakeholders in the trade community are invited to submit feedback on the discussion draft to the Senators’ offices by August 30, 2024.

The bill’s three titles are summarized below.

- **Creating a “One U.S. Government at the Border” (1USG):** The bill seeks to create a true single window for entry data filing and cargo release decisions, enhancing the Automated Commercial Environment (ACE) to better integrate Customs and Border Protection (CBP) and Partner Government Agencies (PGA) filing requirements.
- **Streamlining various customs processes:** The bill would simplify duty drawback processes to speed repayment, direct CBP to allow exporters to submit manifest data and documentation prior to departure, clarify that clerical errors in export data submission should not be subject to penalties, direct the executive branch to study potential simplifications to tariff and fee schedules, and instruct CBP’s Centers of Excellence and Expertise to publish new compliance guidance for traders. The bill specifically instructs the Centers of Excellence and Expertise to provide guidance to importers on post-entry and clearance procedures for goods detained for allegedly including inputs made with forced labor in violation of Section 307 of the Trade Act of 1930.
- **Improving data transparency:** The bill would direct CBP to improve information sharing and cooperation with the trade community. The bill would instruct CBP to work with the private sector when adding new data disclosure requirements to import/export processes, work to avoid redundant data elements, and consider what kinds of data are actually available to businesses and are practical to transfer. The bill would also instruct CBP and the US Postal Service (USPS) to promulgate new regulations that would allow USPS to transmit data on international postal shipments from foreign postal operators to CBP.

For companies participating in the Customs-Trade Partnership Against Terrorism (CTPAT), the bill would require CBP to provide notification when it makes minimum security criteria changes, consult CTPAT users when making CTPAT Handbook updates, and distribute best practices guidance to CTPAT members for mitigating risks of forced labor in supply chains. The bill would also require CBP to provide more points of contact for the trade community and improve response times for petitions, protests, customs rulings, and requests for advice.

Previously, on December 7, 2023, Senators Bill Cassidy and Sheldon Whitehouse (D-RI) introduced the Customs Modernization Act of 2023 (CMA), a bipartisan bill to strengthen customs enforcement.³² The CMA’s sponsors intend for it to increase CBP access to international supply chain data, expand the government’s use of collected data, as well as make supply chains more visible and easier to target in enforcement actions and strengthen oversight of *de minimis* shipments.

The CMA built on the consultations with CBP and private sector stakeholders, but US industry representatives objected to the bill for focusing disproportionality on tightening enforcement. Sen. Cassidy acknowledged its lack of trade facilitation measures and said he would support a separate bipartisan trade facilitation bill that Congress would unveil in 2024. The Customs Facilitation Act emerged from the ensuing discussions.

³¹ Customs Facilitation Act of 2024, discussion draft, accessible here: <https://www.cassidy.senate.gov/wp-content/uploads/2024/07/ROS24D56.pdf>; and “Cassidy Releases Discussion Draft To Modernize Trade Facilitation, Asks For Industry Feedback,” accessible here: <https://www.cassidy.senate.gov/newsroom/press-releases/cassidy-releases-discussion-draft-to-modernize-trade-facilitation-asks-for-industry-feedback/>.

³² S.3431 - Customs Modernization Act of 2023, 118th Congress (2023-2024), accessible here: <https://www.congress.gov/bill/118th-congress/senate-bill/3431>.

If the two bills progress, they would likely eventually become part of a single package, along with other customs and trade measures that are currently under debate. With elections quickly approaching, control of Congress divided, and broader negotiations for a trade policy legislative package stalled, this customs reform effort will continue moving forward slowly.

Customs reform for *de minimis* trade

While work is continuing on the customs reform legislation, members of Congress are seeking quicker action on proposals to specifically reform the US customs *de minimis* entry system. Though there is general political interest in reducing use of *de minimis* entry, politicians have not come to agreement on how it should be done. Congress has spent the past few years debating several differing proposals. In the latest development, Senate Finance Committee Chair Ron Wyden (D-OR) is preparing to introduce another *de minimis* reform bill in the next few weeks, called the Fighting Illicit Goods, Helping Trustworthy Importers, and Netting Gains for America Act of 2024. Sen. Wyden hopes the bill will present a workable compromise between the differing approaches to *de minimis* reform.

Sen. Wyden's proposal would significantly narrow the types of goods that can qualify for *de minimis* treatment, excluding products that are subject to Section 201 (safeguards), Section 301, and Section 232 tariffs, as well as excluding goods that are deemed ineligible for preferential treatment under the Generalized System of Preferences (GSP).³³ The bill would also give the executive branch discretion to prohibit other goods from using *de minimis*. Using the GSP's list of qualifying products for *de minimis* treatment would exclude many import-sensitive products from using *de minimis* entry, including most textile, apparel, and leather products. Similarly, prohibiting goods that are subject to Section 301 tariffs would stop about half of low value imports from China from using *de minimis* entry, also including numerous consumer and apparel products.

Like other recent proposals, the bill would also make other administrative changes to the handling processes and entry requirements for *de minimis* shipments:

- The bill would add new data disclosure and compliance rules, which have become a common feature in recent *de minimis* reform proposals. The bill would direct CBP to require importers of *de minimis* shipments to provide additional identifying information about purchasers and sellers, payment information, Harmonized Tariff Schedule (HTS) classifications at the 10-digit level, and detailed article descriptions. The bill also introduces new penalties for violating the data reporting requirements.
- The bill would create a new streamlined process for disposing of detained *de minimis* shipments for when CBP does not receive timely responses from importers. A similar provision appears in the CMA's *de minimis* law updates.
- The bill would add a new user fee for *de minimis* imports, charging importers \$2 for each *de minimis* entry. The Postmaster General would have authority to waive these fees for international postal shipments. The provision appears to reflect Biden administration's recent request for Congress to create a *de minimis* user fee, which CBP would use to fund expanded inspection and monitoring systems.

Republicans on the House of Representatives Committee on Ways and Means recently approved a bill which has some resemblance to Sen. Cassidy's proposal. H.R.7979, the End China's *de Minimis* Abuse Act, would prohibit goods from qualifying for *de minimis* entry if those goods are covered by Section 301, Section 201, or Section 232

³³ GSP-Eligible Products, accessible here: <https://ustr.gov/issue-areas/trade-development/preference-programs/generalized-system-preferences-gsp/gsp-program-i-0>; see also 19 U.S.C. 2463(b)(1) - Designation of eligible articles, for the list of import-sensitive products that are generally prohibited from qualifying for GSP, accessible here: <https://www.govinfo.gov/content/pkg/USCODE-2023-title19/pdf/USCODE-2023-title19-chap12-subchapV-sec2463.pdf>.

actions.³⁴ The House will likely vote on H.R.7979 in September, though it only has support among Republicans. House Democrats, in contrast, have been advocating for bills that would completely prohibit imports from China from using *de minimis* entry. Expanding on H.R.7979's approach by also prohibiting the GSP's listed import sensitive sectors from using *de minimis* may help Sen. Wyden's proposal win support from his fellow Democrats.

President Biden's request for new *de minimis* authorities

The Biden administration has also now joined the discussion about legal changes for *de minimis* entries, after spending the past few years focused on internal reforms at CBP (which CBP is now finalizing). On July 31, 2024, President Biden issued a national security memorandum and proposed a package of legislative changes, largely intended to combat drug trafficking at US borders and customs checkpoints.³⁵ Among the various initiatives in the announcement is a request that Congress provide CBP with "the tools they need to more effectively track and target the millions of small-dollar shipments that cross our borders every day—closing a loophole that drug traffickers exploit" (it has become common among advocates for *de minimis* reform to refer to the *de minimis* entry system as a law enforcement "loophole"). According to the Biden administration, the request is based on the bipartisan proposals for *de minimis* reforms that are already introduced to Congress.

The legislation sought by the Biden administration would grant CBP more authority to "to demand additional documentation and other information about *de minimis* packages and would impose a corresponding penalty on violators." CBP expects these new documentation authorities would help improve risk assessment and inspection targeting. President Biden is also asking for the legislation to create a new user fee for importers using *de minimis* entry, which would help fund to new enforcement system.

³⁴ 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>.

³⁵ "Biden-Harris Administration Announces New Actions to Counter the Scourge of Fentanyl and Other Synthetic Drugs," accessible here: <https://www.whitehouse.gov/briefing-room/statements-releases/2024/07/31/fact-sheet-biden-%E2%81%A0harris-administration-announces-new-actions-to-counter-the-scourge-of-fentanyl-and-other-synthetic-drugs/>; and "DHS Shows Results in the Fight to Cripple Cartels and Stop Fentanyl from Entering the U.S.," accessible here: <https://www.dhs.gov/news/2024/07/31/fact-sheet-dhs-shows-results-fight-cripple-cartels-and-stop-fentanyl-entering-us>.

Trade Actions

Section 232

United States Imposes Section 232 Requirements for Imports from Mexico: “Melt and Pour” for Steel; “Country of Smelt and Recent Cast” for Aluminum

On July 10, 2024, United States President Joseph R. Biden issued two separate proclamations that narrow the exclusions from tariffs imposed under Section 232 of the Trade Expansion Act of 1962 (“Section 232”) for certain steel and aluminum articles imported from Mexico. The Biden Administration implemented these measures in coordination with the outgoing administration of Mexican President Andrés Manuel López Obrador, which recently imposed measures requiring Mexican importers to provide more information to the Mexican government about the country of origin of imported steel products. The tariff changes under the proclamations took immediate effect, though the details of the certification processes are still forthcoming from US Customs and Border Protection (CBP).

Overview of the Proclamations

The two proclamations issued on July 10 impose different requirements for imports of steel and aluminum based on the countries in which the steel was melted and poured, or the aluminum was smelted or cast:

□ Section 232 Proclamation on Steel Imports from Mexico (“Steel Proclamation”)

The Steel Proclamation³⁶ establishes a “melt and pour requirement” for imports of steel articles and certain specified derivative steel articles from Mexico. Under this requirement, the Proclamation imposes Section 232 duties on all steel imports from Mexico that are melted and poured in a country other than Mexico, Canada, or the United States.

The Steel Proclamation reinstates the 25% *ad valorem* tariff imposed in Presidential Proclamation 9705 of March 8, 2018 (“Adjusting Imports of Steel into the United States”) to all steel imports from Mexico that are melted and poured in a country other than Mexico, Canada, or the United States. To be eligible for duty free treatment under the Steel Proclamation, importers of steel articles from Mexico must provide CBP “the information necessary to identify the countries” where the steel used to manufacture steel articles or derivatives were melted and poured (e.g., a certificate of analysis). Further details on the certificate of analysis process are forthcoming from CBP. The proclamation instructs CBP to “implement the melt and pour information requirements as soon as practicable.”

Mexico is also seeking to exclude from the new Section 232 tariff any products made with steel inputs melted and poured in certain other preferential trade agreement partners. On July 11, Mexico announced it is developing a temporary mechanism for tariff free treatment of steel melted and poured in Brazil that is transformed in Mexico and exported to the United States.³⁷ Negotiations with other economies, including the European Union, may follow. The United States has not yet commented on these potential exceptions.

□ Section 232 Proclamation on Aluminum Imports from Mexico (“Aluminum Proclamation”)

³⁶ Proclamation 10783 of July 10, 2024: Adjusting Imports of Steel Into the United States, 89 FR 57347, accessible here: <https://www.federalregister.gov/documents/2024/07/15/2024-15641/adjusting-imports-of-steel-into-the-united-states>.

³⁷ “Mexico works to strengthen the national steel industry,” Ministry of Foreign Affairs, July 11, 2024, accessible here: <https://www.gob.mx/sre/prensa/mexico-trabaja-para-fortalecer-la-industria-siderurgica-nacional> (in Spanish).

The Aluminum Proclamation³⁸ establishes a “country of smelt and country of most recent cast requirement” for imports of aluminum articles and certain specified derivative aluminum articles from Mexico. Under this requirement, the Proclamation imposes Section 232 duties on all aluminum imports from Mexico that include primary aluminum in which the primary country of smelt, secondary country of smelt, or country of most recent cast is China, Russia, Belarus, or Iran.³⁹

The Aluminum Proclamation reinstates the 10% *ad valorem* tariff imposed in Presidential Proclamation 9704 of March 8, 2018 (“Adjusting Imports of Aluminum into the United States”) to aluminum imports from Mexico in which the primary country of smelt, secondary country of smelt, or country of most recent cast is China, Belarus, or Iran. Further, Presidential Proclamation 10522 of February 24, 2023 (“Adjusting Aluminum Imports into the United States”), which imposed a 200% *ad valorem* tariff on imports of aluminum articles where any amount of primary aluminum used in the manufacture of the aluminum articles is smelted in Russia, the aluminum articles are cast in Russia, or the derivative articles are cast in Russia, continues to apply to imports of aluminum articles from Mexico.

To be eligible for duty free treatment under the Aluminum Proclamation, aluminum articles imported from Mexico must be accompanied by a certificate of analysis that establishes that the primary country or smelt, secondary country of smelt, or country of most recent cast of the primary aluminum used in the product is not China, Russia, Belarus, or Iran. Further details on the certificate of analysis process are forthcoming from CBP. The proclamation instructs CBP to “implement the smelt and cast information requirements as soon as practicable.”

Implementation

The requirements of both Proclamations are effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on July 10, 2024, with corresponding tariff changes to be included in Chapter 99 of the HTSUS. CBP is instructed to impose the melt and pour requirements (for steel imports from Mexico) and the country of smelt and country of most recent cast requirement (for aluminum imports from Mexico) “as soon as practicable.”

Imports of steel and aluminum from Mexico are not currently required to be accompanied by certificates of analysis demonstrating the countries in which the articles were melted and poured (in the case of steel) or smelted and cast (in the case of aluminum). CBP will provide additional information at a later date regarding the content of the certificates of analysis. US importers of steel and aluminum are already required to obtain import licenses and are required to make statements regarding the country of melt and pour (in the case of steel)⁴⁰ and country of smelt and cast (in the case of aluminum)⁴¹ in order to obtain such licenses. The certificates of analysis required for purposes of the Proclamations may require additional information to support the conclusions US steel and aluminum importers already are making when obtaining import licenses.

³⁸ Proclamation 10782 of July 10, 2024: Adjusting Imports of Aluminum Into the United States, accessible here: <https://www.federalregister.gov/documents/2024/07/15/2024-15632/adjusting-imports-of-aluminum-into-the-united-states>.

³⁹ “Primary country of smelt” is defined in the Aluminum Proclamation as the country where the largest volume of new aluminum metal is produced from alumina (or aluminum oxide) by the electrolytic Hall-Héroult process. “Secondary country of smelt” is defined as the country where the second largest volume of new aluminum metal is produced from alumina (or aluminum oxide) by the electrolytic Hall-Héroult process. “Country of most recent cast” refers to the country where the aluminum (with or without alloying elements) was last liquified by heat and cast into a solid state.

⁴⁰ Pursuant to 19 CFR § 360.101, all imports of steel must be accompanied by an import license. Although an importer must provide information regarding the country where the steel used in the manufacture of the product was melted and poured to obtain such an import license, the importer must provide the import license, and not a certificate of analysis, at the time of import. See 19 CFR §§ 360.101, 360.103. Pursuant to 19 CFR § 141.89(a), US importers of steel from Mexico are also required to present a mill analysis or mill certificate showing the percentages by weight of carbon and any metallic elements contained in the articles at the time of import.

⁴¹ Pursuant to 19 CFR § 361.101, all imports of aluminum must be accompanied by an import license. Although an importer must provide country of smelt and cast information to obtain such an import license, the importer must provide the import license, and not a certificate of analysis, at the time of import. See 19 CFR §§ 361.101, 361.103.

Coordinated Mexican actions

The Mexican government has implemented two measures in recent months in an attempt to prevent the evasion of duties on aluminum and steel goods imported to Mexico.

The first measure, published on April 15, 2024, added 72 new tariff lines for steel products (including steel ingot, rolled steel products, and hollow drilling bars) that require Automatic Import Notices. These notices must specify information regarding the country in which the article was melted and poured and in which the article was substantially transformed. The notices must match the details declared in the mill or quality certificates and provide the name of the mill, which must be registered with the Ministry of Economy.

The Mexican government also imposed two tariff increases within the last year on various steel and aluminum products. These increases apply to countries with which Mexico does not have free trade agreements (including, among others, those mentioned in the proclamations: China, Russia, Belarus, or Iran).

Trade Agreements

APEP Ministers Launch Initiatives on Semiconductors, Clean Hydrogen, and Entrepreneurs; Agree on Accession Procedure for New Members

The United States hosted a meeting in Washington, D.C. with foreign ministers from all countries participating in the Americas Partnership for Economic Prosperity (APEP) on July 17, 2024. APEP has 12 participating countries: the United States, Barbados, Canada, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, Mexico, Panama, Peru, and Uruguay.

During the meeting, the foreign ministers reviewed progress on the Foreign Affairs Track agenda set by leaders in the East Room Declaration at the inaugural APEP Summit in November 2023.⁴² They also issued a *Joint Statement on Delivering on the Promise of the Americas Partnership by Unlocking Competitiveness for Inclusive Prosperity*.⁴³

In his opening remarks, Secretary of State Antony J. Blinken highlighted some of the initiatives launched in the Foreign Affairs Track.⁴⁴

- **Semiconductors.** The United States, in collaboration with the Inter-American Development Bank (IDB), unveiled the CHIPS ITSI Western Hemisphere Semiconductor Initiative. This initiative, supported through the CHIPS Act International Technology Security and Innovation (ITSI) Fund, will seek to bolster semiconductor production capabilities across the Western Hemisphere, such as assembly, testing, and packaging (ATP) capabilities, through public-private partnerships and implementation of OECD recommendations tailored to enhance the semiconductor ecosystems in targeted countries. The initiative will commence in 2024 and continue through 2026, beginning with Mexico, Panama, and Costa Rica.

In addition, Mexico and the United States will jointly host a symposium in September to identify key challenges, explore emerging opportunities, and develop strategies for sustainable growth and collaboration in this critical industry.

- **Clean hydrogen.** Participating countries have launched an initiative to promote the growth of hydrogen as a new renewable energy source in the hemisphere. They have established a Clean Hydrogen Working Group, co-led by Chile, the United States, and Uruguay, to coordinate on technical and regulatory issues and encourage the implementation of national hydrogen strategies. As part of this initiative, Mexico will organize a symposium on best international practices for developing a roadmap to achieve a national hydrogen strategy.
- **Accelerator programs for entrepreneurs.** Canada, the United States, and Uruguay are co-leading an effort to train an inclusive, diverse cohort of entrepreneurs through different accelerator programs (e.g., the USAID CATALYZE Americas Partnership Accelerator, the Accelerate Women Entrepreneurs Program, etc.). These accelerator programs are designed to support approximately 750 entrepreneurs in ten APEP countries over three years and steer some of those graduates toward an Angel Investor Network of the Americas, led by the Uruguay Innovation Hub in partnership with IDB Lab.
- **Investor network.** Uruguay and the United States launched the Angel Investor Network of the Americas, with the support of Endeavor Miami and IDB Lab, to mobilize early-stage investments for innovative entrepreneurs in

⁴² The East Room Declaration is accessible here: <https://www.whitehouse.gov/briefing-room/statements-releases/2023/11/03/east-room-declaration-of-the-leaders-of-the-americas-partnership-for-economic-prosperity/>.

⁴³ The Joint Statement is accessible here: <https://www.state.gov/joint-statement-on-delivering-on-the-promise-of-the-americas-partnership-by-unlocking-competitiveness-for-inclusive-prosperity/>.

⁴⁴ Secretary Blinken's opening remarks at the APEP Meeting are accessible here: <https://www.state.gov/secretary-antony-j-blinken-at-the-americas-partnership-for-economic-prosperity-foreign-affairs-track-ministerial/>.

Latin America and the Caribbean. With an initial commitment of up to US \$1 billion in private capital dedicated to supporting Latin American founders, this initiative aims to close the funding gap faced by many startups, driving economic development and empowering innovative entrepreneurs throughout the region.

- **Center for Excellence.** Costa Rica has established a Center of Excellence to prepare workers from across the Americas to be more competitive in the future's high-tech fields, such as semiconductors, artificial intelligence, cyber security, 5G, and cloud computing. Participating countries seek to offer virtual digital skills and training region-wide to accelerator graduates and startups as part of the Angel Investor Network platform under a joint entrepreneurship and digital workforce umbrella.
- **New U.S. technical assistance facility.** The United States will fund a new technical assistance facility with up to US \$30 million to accelerate international development projects in APEP countries throughout Latin America and the Caribbean that meet rigorous criteria for obtaining financing from the IDB and the U.S. International Development Finance Corporation (DFC).
- **New APEP members.** Participant countries have established a formal accession procedure for prospective participants from the Western Hemisphere, who will have to uphold the highest standards anchored in the principles of the East Room Declaration. Argentina, Paraguay, and Belize are among the countries that have signaled their interest in joining the bloc.

APEP trade ministers are set to convene in Ecuador in August 2024. Costa Rica plans to host the next Americas Partnership Leaders' Summit during the first semester of 2025.

IPEF

IPEF Supply Chain Agreement Partners Hold First Meetings with Japan Elected to Vice Chair the Crisis Response Network

In late July, the countries participating in the Indo-Pacific Economic Framework for Prosperity (IPEF) Agreement Relating to Supply Chain Resilience (Supply Chain Agreement) held virtual inaugural meetings for the three permanent bodies the agreement established.⁴⁵ The Supply Chain Council, the Crisis Response Network, and the Labor Rights Advisory Board are responsible for implementing the Supply Chain Agreement's various ongoing programs related to supply chain resilience, emergency response, and worker rights. During these inaugural meetings, the three bodies selected Chairs and Vice Chairs, adopted rules, and planned their next steps.

The Supply Chain Agreement was the first of IPEF's four pillars the parties implemented, having entered force on February 24, 2024. Following on the Supply Chain Agreement's success, the parties completed and signed the IPEF Agreement Relating to a Clean Economy (Pillar III), the IPEF Agreement Relating to a Fair Economy (Pillar IV), and the overarching Agreement on IPEF in June 2024.⁴⁶ Pillar I (Trade), which is the IPEF pillar most similar to a traditional trade agreement, remains unfinished.

Supply Chain Council

The Supply Chain Council, which met on July 22, is meant to "pursue targeted, action-oriented work to strengthen the supply chains for those sectors and goods most critical to national security, public health, and economic well-being."

⁴⁵ "U.S. and IPEF Partners Establish Supply Chain Bodies and Convene First Virtual Meetings Under Landmark Supply Chain Agreement," US Department of Commerce, July 30, 2024, accessible here: <https://www.commerce.gov/news/press-releases/2024/07/us-and-ipef-partners-establish-supply-chain-bodies-and-convene-first>.

⁴⁶ "Press Statement on Indo-Pacific Economic Framework for Prosperity Ministerial Meeting in Singapore," US Department of Commerce, June 6, 2024, accessible here: <https://www.commerce.gov/news/press-releases/2024/06/press-statement-indo-pacific-economic-framework-prosperity-ministerial>.

During its first meeting, members adopted a Terms of Reference and discussed priorities for initial work. The Council intends to hold its first in-person meeting alongside a summit on supply chain policy that the US Department of Commerce plans to hold in September in Washington, DC.

The Council members elected the United States as Chair and India as Vice Chair. Assistant Secretary of Commerce for Industry and Analysis Grant Harris will represent the United States on the Council. The Bureau of Industry and Analysis (part of the Department of Commerce's International Trade Administration) recently established a Supply Chain Center, which will help the US government coordinate supply chain policy activities and monitor for supply chain disruptions.

Crisis Response Network

The Crisis Response Network, which met on July 23, will “provide a forum for collective emergency response to exigent or imminent disruptions.” Members elected Korea to serve as Chair and Japan to serve as Vice Chair. The inaugural meeting covered the group's priorities and agenda for future meetings. In announcing its election to lead the network, the Korean Ministry of Trade, Industry, and Energy (MOTIE) stated the event demonstrates how “Korea's experience and policy know-how in supply chain emergency response were highly appraised by partner countries” and that “Japan's election as vice chair places the two countries in a position to take the joint initiative in building a global cooperative system for supply chain management.”⁴⁷ MOTIE plans to host tabletop exercises with the network to practice responses to supply chain disruptions.

Like the Supply Chain Council, the next meeting of the Crisis Response Network will take place in person on the margins of the Commerce Department's Supply Chain Summit and Grant Harris will represent the United States.

Labor Rights Advisory Board

The Labor Rights Advisory Board, which met on July 29, “brings together workers, employers, and governments at the same table to strengthen labor rights and workforce development across regional supply chains.” Unlike the Supply Chain Council and the Crisis Response Network, the Labor Rights Advisory Board also includes representatives from worker and employer organizations from each of the IPEF partners. For the United States, Deputy Undersecretary of Labor for International Affairs Thea Lee, Eric Gottwald of the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), and Ewa Staworzynska of the United States Council for International Business (USCIB) will serve on the board.

The United States was elected to Chair the board and Fiji was elected to the Vice Chair. The board plans to hold its first in-person meeting from August 26-28 in Bangkok, Thailand. The Bangkok meeting will also discuss the labor provisions of the Clean Economy and Fair Economy agreements.

⁴⁷ “Korea elected as inaugural chair of IPEF Crisis Response Network,” Ministry of Trade, Industry, and Energy, July 30, 2024, accessible here: <https://english.motie.go.kr/eng/article/EATCLdfa319ada/1972/view>.

Petitions & Investigations

Investigations

Department of Commerce Delays Deadlines for Antidumping and Countervailing Duty Proceedings

The Department of Commerce (Commerce) has delayed the deadlines for various investigations by seven days because of disruptions caused by the CrowdStrike software outages. The delay was announced in memorandums that were posted to the dockets of the ongoing antidumping duty (ADD) and countervailing duty (CVD) proceedings on July 22, 2024.

The extension applies to deadlines for initiations, preliminary determinations, and final determinations. The extensions do not apply to deadlines for actions by parties in open segments, including questionnaire responses, supplemental questionnaire responses, and case and rebuttal briefs. That said, Commerce will consider case-by-case extension requests as usual.

On July 23, Commerce published a similar memo announcing it had delayed the decision on its Vietnam non-market economy status review by six days. Commerce issued the delayed determination on August 1, announcing that it will continue to classify Vietnam as a non-market economy.⁴⁸

International Trade Commission Determines that Increased Imports of Fine Denier Polyester Staple Fiber is Injuring US Industry; Sets Stage for Possible Safeguard Remedies

On July 9, 2024, the US International Trade Commission (ITC) determined in its safeguard investigation that fine denier polyester staple fiber (fine denier PSF) is being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry.⁴⁹ The ITC made additional findings that imports from US free trade agreement partners are either not substantial in quantity or not substantial causes of the injury or threats of injury.

Following the determination, ITC proceeded to the remedy phase of the investigation. To gather input on potential remedies from affected parties, the ITC held a public hearing on July 23. At the hearing, representatives of the domestic industry argued for strong relief measures that would apply to all countries, including calling for a tariff rate quota with in-quota tariffs of 25% and out-of-quota tariffs of 50%. Representatives of the US yarn industry at the hearing warned that highly restrictive measures would cause injury to downstream textile sectors like the US yarn spinning industry.

The ITC will submit its report and remedy recommendations to the president by August 26. The United States Trade Representative (USTR), as part of the Executive Office of the President, will invite further public input on the recommendations the ITC submits to the president.⁵⁰ Following receipt and review of the ITC's report, the president will make the final decisions about whether to provide relief and what kind of relief to provide. Policy options for relief

⁴⁸ "Department Of Commerce Final Decision in Review of The Non-Market Economy Status of Vietnam," International Trade Administration, August 1, 2024, accessible here: <https://www.trade.gov/press-release/department-commerce-final-decision-review-non-market-economy-status-vietnam>.

⁴⁹ "Increased Imports of Fine Denier Polyester Staple Fiber Injure U.S. Industry, USITC Determines," July 9, 2024, USITC, accessible here: https://www.usitc.gov/press_room/news_release/2024/er0709_65394.htm.

⁵⁰ "Request for Comments and Public Hearing About the Administration's Action Following a Determination of Import Injury With Regard to Fine Denier Polyester Staple Fiber (PSF)," 89 FR 63465 (August 5, 2024), accessible here: <https://www.federalregister.gov/documents/2024/08/05/2024-17138/request-for-comments-and-public-hearing-about-the-administrations-action-following-a-determination>.

actions include tariff increases, quotas, tariff-rate quotas, trade adjustment assistance, negotiations with the exporting countries, or other actions authorized under law that are likely to facilitate adjustment. Relief actions under safeguards are temporary, with up to a four-year duration with an option to extend for another four years.

Safeguard investigations allow the government to temporarily restrict imports of a product if those imports are threatening serious injury to a domestic industry. Unlike ADD and CVD investigation, the government does not have to find sales at less than fair value or countervailable subsidies to invoke safeguard import restrictions. On the other hand, safeguard actions require that the threatened injury be serious and that the increased imports are the substantial cause of that injury, which creates a higher standard for the injury determination than in ADD and CVD investigations.

The United States imported \$179 million of fine denier PSF (HTSUS 5503.20.0025) in 2023 and \$183 million in 2022. This compares to \$120 million and \$132 million in 2018 and 2019, respectively. Thailand has been the largest source of US imports for the past few years (totaling \$63 million in 2023 and \$56 million in 2022), followed by India, Taiwan, Indonesia, and Mexico.

Three domestic producers of fine denier PSF (Fiber Industries LLC d/b/a Darling Fibers; Nan Ya Plastics Corporation, America; and Sun Fiber LLC) filed the petition on February 28, 2024.⁵¹ The petition alleged that imports have recently increased in both absolute terms and as a share of US domestic consumption. Increasing imports, the petition argued, has led to falling production, declining financial performance, and reduced investment and employment in the domestic industry.

Covered product

The covered product under this petition is fine denier polyester staple fiber, not carded or combed, measuring less than 3.3 decitex (3 denier) in diameter. The scope covers all fine denier polyester staple fiber, whether coated or uncoated. Fine denier PSF is imported under Harmonized Tariff Schedule of the United States (HTSUS) subheading 5503.20.0025.

The scope excludes (i) fiber equal to or greater than 3.3 decitex (more than 3 denier, inclusive) currently imported under HTSUS subheadings 5503.20.0045 and 5503.20.0065; and (ii) low-melt PSF defined as a bicomponent polyester fiber having a polyester fiber component that melts at a lower temperature than the other polyester fiber component, which is currently imported under HTSUS subheadings 5503.20.0015.

Commerce Issues Continuation Notice for ADD Order on Tin Mill Products from Japan Following Fourth Sunset Review

On July 17, 2024, Commerce published a notice of continuation for the ADD order on certain tin mill products from Japan.⁵² Commerce's decision follows determinations by the ITC and Commerce in the fourth sunset review that revocation of the order would likely lead to the continuation or recurrence of dumping and material injury. As a result of the continuation order, CBP will continue collecting cash deposits at the rates in effect at the time of entry. The effective date of the order is May 31, 2024.

⁵¹ US notification to the WTO on fine denier polyester staple fiber, G/SG/N/6/USA/14, March 11, 2024, accessible here: <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/G/SG/N6USA14.pdf&Open=True>; and "Fine Denier Polyester Staple Fiber; Institution of Investigation, Scheduling of Public Hearings, and Determination That the Investigation Is Extraordinarily Complicated," 89 FR 18435 (March 13, 2024), accessible here: <https://www.federalregister.gov/documents/2024/03/13/2024-05338/fine-denier-polyester-staple-fiber-institution-of-investigation-scheduling-of-public-hearings-and>.

⁵² "Certain Tin Mill Products From Japan: Continuation of Antidumping Duty Order," 89 FR 58114 (July 17, 2024), accessible here: <https://www.federalregister.gov/documents/2024/07/17/2024-15682/certain-tin-mill-products-from-japan-continuation-of-antidumping-duty-order>.

Commerce and the ITC initiated the fourth sunset review in June 2023. On October 5, 2023, Commerce issued the affirmative final results of its expedited review, maintaining the dumping margin at 95.29%.⁵³ The ITC conducted a full review, for which it issued an affirmative determination that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of material injury, on May 31, 2024.⁵⁴

Covered product

The scope of this Order includes tin mill flat-rolled products that are coated or plated with tin, chromium or chromium oxides. Flat-rolled steel products coated with tin are known as tin plate. Flat-rolled steel products coated with chromium or chromium oxides are known as tin-free steel or electrolytic chromium-coated steel. The scope includes all the noted tin mill products regardless of thickness, width, form (in coils or cut sheets), coating type (electrolytic or otherwise), edge (trimmed, untrimmed or further processed, such as scroll cut), coating thickness, surface finish, temper, coating metal (tin, chromium, chromium oxide), reduction (single- or double-reduced), and whether or not coated with a plastic material. All products that meet the written physical description are within the scope of the Order unless specifically excluded (a full list of exclusions can be found in the continuation notice). The products are classified under HTSUS 7210.11.0000, 7210.12.0000, 7210.50.0000, 7212.10.0000, and 7212.50.0000 if of non-alloy steel and under HTSUS 7225.99.0090, and 7226.99.0180 if of alloy steel. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope is dispositive.

Commerce Issues Preliminary Affirmative Determination and Partial Rescission for 2022-2023 Administrative Review of the ADD Order on Glycine from Japan

On July 3, 2024, Commerce published a notice of its preliminary affirmative determination that Yuki Gosei Kogyo Co., Ltd./Nagase & Co., Ltd., a producer/exporter of glycine from Japan subject to the 2022-2023 administrative review, had made sales at less than normal value during the period of review (June 1, 2022 - May 31, 2023).⁵⁵ The preliminary weighted-average dumping margin is estimated at 0.99%. Commerce rescinded the review for the other producer/exporter subject to the review, Showa Denko K.K., after the party requesting the review withdrew.

Commerce intends to issue the final results no later than 120 days after the publication of this preliminary determination. After Commerce issues the final results, it will calculate a new importer-specific assessment rate for Yuki Gosei Kogyo Co., Ltd./Nagase & Co., Ltd. based on the final weighted-average dumping margin. All other Japanese exporters are still subject to the all-others rate from the initial investigation (53.66%) unless they have received a separate rate in the original investigation or other subsequent reviews.

Covered product

The product covered by the original orders is glycine at any purity level or grade. This includes glycine of all purity levels, which covers all forms of crude or technical glycine including, but not limited to, sodium glycinate, glycine slurry and any other forms of amino acetic acid or glycine. Subject merchandise also includes glycine and precursors of dried crystalline glycine that are processed in a third country, including, but not limited to, refining or any other processing that would not otherwise remove the merchandise from the scope of this order if performed in the country of manufacture of the in-scope glycine or precursors of dried crystalline glycine. Glycine has the Chemical Abstracts Service (CAS) registry number of 56-40-6. Glycine and glycine slurry are classified under HTSUS subheading

⁵³ "Certain Tin Mill Products From Japan: Final Results of the Expedited Fourth Sunset Review of the Antidumping Duty Order," 88 FR 69133 (October 5, 2023), accessible here: <https://www.federalregister.gov/documents/2023/10/05/2023-22127/certain-tin-mill-products-from-japan-final-results-of-the-expedited-fourth-sunset-review-of-the>.

⁵⁴ "Tin- and Chromium-Coated Steel Sheet From Japan; Determination," 89 FR 47175 (May 31, 2024), accessible here: <https://www.federalregister.gov/documents/2024/05/31/2024-12014/tin--and-chromium-coated-steel-sheet-from-japan-determination>.

⁵⁵ "Glycine From Japan: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review; 2022-2023," 89 FR 55228 (July 3, 2024), accessible here: <https://www.federalregister.gov/documents/2024/07/03/2024-14659/glycine-from-japan-preliminary-results-and-rescission-in-part-of-antidumping-duty-administrative#footnote-3-p55229>.

2922.49.43.00. Sodium glycinate is classified in the HTSUS under 2922.49.80.00. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope is dispositive.