

Beyond the USMCA and the IRA: Speed Bumps, Fast Lanes

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Aluminum

Aluminum is clearly an important material for the industry as there is an objective for making vehicles as light as possible. Aluminum issues may start with Tariff Classification and Country of Origin questions, and can lead to more complex issues, including Section 232 tariffs or other high-tariff trade barriers.

For example, in November 2023, the US International Trade Commission (ITC) made affirmative determinations in its preliminary phase of [antidumping and countervailing duty \(AD/CVD\) investigations](#) concerning aluminum extrusions from China, Colombia, Ecuador, India, Indonesia, Italy, Malaysia, Mexico, South Korea, Taiwan, Thailand, Turkey, United Arab Emirates, and Vietnam. The ITC also voted to terminate the investigation with respect to the Dominican Republic, though that determination is being appealed. Section 232 tariffs were also expanded to include a [200% tariff](#) on aluminum and certain derivative articles where any amount of primary aluminum is smelted or cast in Russia.

Takeaway: These aluminum issues will be developing quickly during 2024. The “scope” of the AD/CVD investigations will determine which companies and which products will be ensnared.

Forced Labor

Washington, DC, remains very focused on the use of forced labor by certain trading partners, in particular China. Both the Biden Administration and US Congress have called for increased scrutiny of US supply chains. US agencies tasked with this effort have increased enforcement efforts to prevent the entry into the United States of goods suspected of having been made with forced labor. Under the Uyghur Forced Labor Prevention Act (UFLPA), there is no *de minimis exception* and the burden to prove a product has not been produced by forced labor lies squarely with the importer.

Takeaway: US anti-forced labor provisions affect all US importers, but the automotive and electric vehicle (EV) battery industries are particularly affected. Responsible supply chain sourcing and tracing, which was already important for origin and other tariff purposes, will be essential for companies seeking to avoid unnecessary scrutiny in this area.

CBP Green Trade Strategy

Launched in June 2022, US Customs and Border Protection's (CBP) Green Trade Strategy governs the agency's efforts to combat climate change in the context of the trade mission. One important agency goal is to "(P)rovide facilitation benefits and other incentives to promote environmentally friendly trade practices and supply chains".

Takeaway: If the Green Trade Strategy is developed into actionable trade law, this would be a continuation of the chaotic challenges faced by executives in complying with multiple US agency rules on their procurement and supplier relationships.

Green Steel Pact and EU Negotiations

In May 2023, US Commerce Secretary Gina Raimondo made clear that the Biden Administration was "extremely focused" on reaching a "green steel" arrangement with the European Union (EU), one that US Trade Representative Katherine Tai described as a "game changer" for the industry's efforts to deal with Chinese excess steel manufacturing capacity.

Takeaway: These negotiations are aimed at erecting trade barriers to steel produced with higher carbon emissions and raises the question of how these imports would be treated and administered at the border.

US 232 Tariffs on Aluminum and Steel Imports

In mid-2023, Secretary Raimondo spoke at an American Iron and Steel Institute conference in Washington, DC, at which she restated the Biden Administration's robust commitment that Section 232 tariffs on global steel and aluminum imports be strongly enforced.

Takeaway: As with Section 301 tariffs, Section 232 tariffs are not going away any time soon. The question remains whether the scope of these tariffs will be changed in 2024. For example, will there be a change in the list of countries from which these tariffs apply and/or the range of products applicable. In addition, and not to be overlooked, US enforcement concerns of illegal transshipment are certain to continue.

AI Trends and Trade Enforcement

Throughout 2023 and around the world, the impact of artificial intelligence (AI) on government policy has been explored and regulatory frameworks considered. In terms of international trade policy, the use of AI will undoubtedly touch on a multitude of factors, from intellectual property protection to product standards. As trade enforcement is triggered by digital data, the use of AI as an enforcement tool by trade agencies will be a focus priority for Washington, DC, and beyond.

Through support from the US Department of Homeland Security's (DHS) Center for Accelerating Operational Efficiency (COAE), CBP is already implementing AI technology to help screen cargo at

ports of entry, validate identities in the CBP One app, and enhance awareness of threats at the border.

Takeaway: As AI expands CBP's already robust enforcement mechanisms, will CBP provide the trade community with transparency into the AI enforcement parameters through additional guidance in 2024?

EV Charging Stations and Infrastructure

During our conference travels in 2023, we heard time and again one of the most widely cited hurdles to broadened consumer adoption of EVs: "range anxiety". Other than improving an EV's range, the only way to overcome this hurdle is to improve the EV charging infrastructure across the country. For producers of EV chargers and equipment, the opportunities are clear, but challenges can sometimes arise in unexpected places — for example, [the recent nationwide shortage of electric transformers has caused the lead time for energy storage projects to triple in some cases](#).

Takeaway: The [Inflation Reduction Act of 2022's \(IRA\) EV charger tax incentive for EV charging stations and equipment](#) provides some relief for the time being, but the trade rules around classification, origin, and Section 301 may determine which entrants in this field come out as winners in the long run.

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