

New Antidumping and Countervailing Duty Petitions on Active Anode Materials from China

Article By:

International Trade Practice at Squire Patton Boggs

On December 17, 2024, American Active Anode Material Producers, a trade association consisting of domestic manufacturers of certain active anode materials, filed petitions with the US Department of Commerce (DOC) and the US International Trade Commission (ITC) seeking the imposition of antidumping (AD) and countervailing duties (CVD) on imports of such materials from China. The proposed tariffs could result in significant cost increases for electric vehicle (EV) production, as the active anode materials make up a substantial portion of battery costs, and may raise questions as to the availability of US domestic supply to meet domestic EV production needs.

Active Anode Material and the US EV industry

Active anode material is made from naturally sourced (mined) graphite or synthetically produced graphite. It is most commonly used as the main component in the anode of lithium-ion batteries, which are used to power EVs.

The US EV industry is largely dependent on imports of battery-grade graphite and anode materials from China because of the lack of domestic production capabilities. According to the US Geological Survey, the United States has minimal sources for natural graphite. Further, US synthetic graphite production is relatively nascent. In contrast, China produces 77% of all graphite globally and accounts for 97% of global anode output. (See Exhibit I-16 of the Petition). According to official US import statistics, imports of active anode material from China totaled approximately \$374 million and 84.3 million kilograms in 2023, representing approximately 67% of all imports of such merchandise into the United States.

The US government has tried to increase domestic self-sufficiency for EV batteries but has also recognized the importance of battery-grade graphite imports for the production of EVs in the interim, while domestic production capabilities are built. Under the Inflation Reduction Act, consumers can receive a tax credit for purchasing EVs that contain non-Chinese origin battery minerals and components, among other requirements. However, federal officials effectively exempted graphite from this prohibition until 2027 to compensate for the US' lack of domestic production and China's dominance in graphite/anode production.

Until the United States is able to develop domestic sources of graphite, its EV industry will be

dependent on such imports from China. But at the same time, the US domestic graphite industry will assert that domestic production cannot grow and compete against Chinese imports if they are sold in the US at less than fair value prices.

Tariff Implications

Under US trade remedies law, a domestic industry may petition the United States government to initiate an AD investigation into the pricing of an imported product to determine whether it is sold in the United States at less than fair normal value prices. Further, a domestic industry also may petition for the initiation of an investigation of alleged countervailable subsidies provided by a foreign government to producers and exporters of the subject merchandise. DOC will impose AD and/or CVD duties on the subject imports if it determines that imports of that product are dumped and/or subsidized, and if the ITC also determines that the domestic industry is materially injured or threatened with such injury by reason of imports of the subject merchandise.

Petitioners seek the imposition of antidumping import duties between 828% and 921% for imports of active anode material from China. These are only estimates based on the Petitioner’s claims. DOC generally assigns duties at the highest dumping rate alleged by petitioners to foreign producers and exporters who fail to cooperate during the investigation as to answering DOC questionnaires to obtain an AD/CVD margin based on their actual situation.

The most immediate activity will occur at the ITC. In the preliminary stage, the threshold to find injury from the accused imports is low such that the ITC generally finds sufficient indicia of injury to a US industry from the accused imports to continue the investigations. If the ITC votes to continue, then the investigation moves to DOC.

If the ITC and DOC make preliminary affirmative determinations, US importers will be required to post cash deposits in the amount of the AD and/or CVD duties for all entries of the subject merchandise entered on or after the date of DOC’s preliminary determinations being published in the Federal Register. Note that if there is a surge of imports from the subject country following the filing of the petitions, DOC can find critical circumstances for a particular subject country (or producer) and instruct US Customs & Border Protection (CBP) to collect cash deposits retroactively to 90 days before the date of publication of the preliminary determination.

Following further factual investigation, verification, and briefing, DOC can change the preliminary AD/CVD rates in its final determinations. AD/CVD Orders will only issue if both the DOC and ITC make affirmative final determinations. The ITC final injury investigation is more rigorous than its preliminary injury investigation, where historically 30% or so of petitions are rejected at that final stage.

Estimated Schedule of Investigations

12/17/2024	Petition filed
1/31/2025	ITC preliminary injury determination
3/12/2025	DOC preliminary CVD determination, if not postponed
5/16/2025	DOC preliminary CVD determination, if fully postponed
5/26/2025	DOC preliminary AD determination, if not postponed

7/15/2025	DOC preliminary AD determination, if fully postponed
11/27/2025	DOC final AD and CVD determinations, if both preliminary and final determinations fully postponed
1/11/2026	ITC final injury determination, if DOC's determinations fully postponed
1/18/2026	AD/CVD orders published
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